
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1167 Session of
2022

INTRODUCED BY DiSANTO, STREET, LAUGHLIN, BREWSTER, GORDNER,
CAPPELLETTI, REGAN, BOSCOLA, MENSCH, KEARNEY, ROBINSON, MUTH
AND KANE, MARCH 25, 2022

REFERRED TO BANKING AND INSURANCE, MARCH 25, 2022

AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, providing for legitimate cannabis-
3 related business.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 12 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 55

9 LEGITIMATE CANNABIS-RELATED BUSINESS

10 Sec.

11 5501. Scope of chapter.

12 5502. Definitions.

13 5503. Services to legitimate cannabis-related businesses.

14 5504. Protections for financial institutions, insurers,

15 legitimate cannabis-related businesses and business
16 associates.

17 5505. Access to information.

18 5506. Required disclosures.

1 5507. Ordinary business deductions.

2 5508. Regulations and statements of policy.

3 § 5501. Scope of chapter.

4 This chapter relates to legitimate cannabis-related
5 businesses.

6 § 5502. Definitions.

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

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

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

20 "Cannabis product." A product that contains cannabis, a
21 cannabis extract or a cannabis concentrate, including, but not
22 limited to, edible products, beverages, topicals, ointments,
23 oils, tinctures, capsules, pills, suppositories, inhaled
24 products, a hemp-derived cannabinoid product or a medical
25 marijuana product as defined in section 103 of the act of April
26 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

27 "Depository institution." As follows:

28 (1) a depository institution as defined in section 3(c)
29 of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C.
30 § 1811 et seq.);

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

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

6 "Federal financial regulatory agency." The term includes the
7 Federal Reserve System, the United States Treasury, the
8 Comptroller of the Currency, the National Credit Union
9 Administration, the Federal Deposit Insurance Corporation, the
10 Securities and Exchange Commission and the Consumer Financial
11 Protection Bureau.

12 "Financial institution." A depository institution, trust
13 company, licensee, a person subject to the jurisdiction of the
14 Securities Exchange Commission or a person subject to the
15 jurisdiction of the Department of Banking and Securities under
16 the act of December 5, 1972 (P.L.1280, No.284), known as the
17 Pennsylvania Securities Act of 1972.

18 "Financial service."

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

20 (i) as defined by section 1002 of the Dodd-Frank
21 Wall Street Reform and Consumer Protection Act (Public
22 Law 111-203, 12 U.S.C. § 5301 et seq.), regardless of
23 whether the customer receiving the product or service is
24 a consumer or a commercial entity; or

25 (ii) permitted to be provided under the authority
26 of:

27 (A) a national bank or a financial subsidiary
28 under 12 U.S.C. §§ 24 (42 Stat. 767), 24a (113 Stat.
29 1373) and 92a (76 Stat. 668);

30 (B) a Federal credit union under the Federal

1 Credit Union Act;

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

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

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

13 (F) a person registered, or exempt from
14 registration, to:

15 (I) offer or sell any security, under the
16 Securities Act of 1933 (48 Stat. 74, 15 U.S.C. §
17 77a et seq.);

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

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

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

27 (G) a person acting as a broker-dealer, agent,
28 investment adviser or investment adviser
29 representative in this Commonwealth under the
30 Pennsylvania Securities Act of 1972.

1 (2) The term includes a service, whether performed
2 directly or indirectly, authorizing, processing, clearing,
3 settling, billing, transferring for deposit, transmitting,
4 delivering, instructing to be delivered, reconciling,
5 collecting or otherwise effectuating or facilitating the
6 payments of funds, where funds payments or funds are made or
7 transferred by any means, including by the use of credit
8 cards, debit cards or other access devices, accounts,
9 original or substitute checks or electronic funds transfers.

10 "Hemp." As defined under section 297A of the Agricultural
11 Marketing Act of 1946 (132 Stat. 4908, 7 U.S.C. § 1639o).

12 "Insurance service." A service authorized to be provided by
13 an insurer in this Commonwealth.

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

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

29 "Licensee." A person defined as a licensee by section 2 of
30 the act of May 15, 1933 (P.L.565, No.111), known as the

1 Department of Banking and Securities Code.

2 "State." Any state, territory or possession of the United
3 States, the District of Columbia, the Commonwealth of Puerto
4 Rico, the Commonwealth of the Northern Mariana Islands, Guam,
5 American Samoa or the United States Virgin Islands or any
6 federally recognized Indian tribe as defined by the Secretary of
7 the Interior under section 104(a) of the Federally Recognized
8 Indian Tribe List Act of 1994 (Public Law 103-454, 25 U.S.C. §
9 479a-1).

10 "Trust company." The term includes:

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

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

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

18 § 5503. Services to legitimate cannabis-related businesses.

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

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

28 (2) the consumer protection laws of this Commonwealth;

29 (3) any additional requirements applicable to the
30 institution established for the provision of services by a

1 Federal financial regulatory agency, the Department of
2 Banking and Securities or a financial regulatory agency of
3 the state under which the institution is organized; and

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

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

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

16 (2) the consumer protection laws of this Commonwealth;

17 (3) any additional requirements applicable to the
18 insurer established for the provision of services by the
19 Insurance Department; and

20 (4) to 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 services by an insurance regulatory agency of
25 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

1 the business associates of a legitimate cannabis-related
2 business or to any other business.
3 § 5504. Protections for financial institutions, insurers,
4 legitimate cannabis-related businesses and business
5 associates.

6 (a) Actions of government agencies.--Except as provided by
7 section 5503(a) and (b) (relating to services to legitimate
8 cannabis-related businesses), no agency or political subdivision
9 of this Commonwealth may:

10 (1) prohibit, penalize or otherwise discourage a
11 financial institution or insurer from providing financial or
12 insurance services to a legitimate cannabis-related business
13 or the business associates of a legitimate cannabis-related
14 business;

15 (2) recommend, incentivize or encourage a financial
16 institution or insurer not to offer financial or insurance
17 services to an account holder, or downgrade or cancel
18 services provided to the account holder, solely because the
19 account holder is a legitimate cannabis-related business or a
20 business associate of a legitimate cannabis-related business;

21 (3) take adverse or corrective supervisory action on a
22 loan made to a legitimate cannabis-related business or a
23 business associate of a legitimate cannabis-related business
24 solely because the loan has been made to a legitimate
25 cannabis-related business or a business associate of a
26 legitimate cannabis-related business;

27 (4) prohibit or penalize a financial institution or
28 insurer performing financial or insurance services in
29 association with another financial institution or insurer
30 from providing financial or insurance services to a

1 legitimate cannabis-related business or a business associate
2 of a legitimate cannabis-related business; or

3 (5) subject the legal interest of a financial
4 institution in the collateral for a loan or another financial
5 service provided to a legitimate cannabis-related business or
6 the business associates of a legitimate cannabis-related
7 business to civil or criminal forfeiture under any laws of
8 this Commonwealth or initiate or participate in proceedings
9 for the civil or criminal forfeiture of a legal interest
10 under Federal law or under the laws of another state.

11 (b) Enforcement authority.--Nothing in this act shall
12 prevent the Department of Banking and Securities, the Insurance
13 Department or the Attorney General, in a manner consistent with
14 the requirements of section 506 of the act of May 15, 1933
15 (P.L.565, No.111), known as the Department of Banking and
16 Securities Code, from undertaking an enforcement action for
17 compliance with the requirements of section 5503(a) and (b) in a
18 manner consistent with subsection (a).

19 (c) Criminal prosecution and civil claims.--No financial
20 institution or insurer, or the directors, officers, employees,
21 agents, owners, shareholders or members of a financial
22 institution or insurer, shall be subject to a criminal
23 prosecution, sanction or claim for damages or any equitable
24 remedy, solely because the institution or insurer is providing
25 financial or insurance services to or for the benefit of a
26 legitimate cannabis-related business or the business associates
27 of a legitimate cannabis-related business.

28 (d) Proceeds of legitimate cannabis-related business
29 activities.--The proceeds of any transaction involving the
30 activities of a legitimate cannabis-related business may not be

1 considered proceeds from an unlawful activity, solely because
2 the transaction involves the proceeds from a legitimate
3 cannabis-related business or a business associate of a
4 legitimate cannabis-related business.

5 (e) Rights and privileges.--No legitimate cannabis-related
6 business, or a business associate of a legitimate cannabis-
7 related business, shall be denied any right or privilege by a
8 State agency solely because of the business's or business
9 associate's lawful participation in the medical marijuana
10 program established under the act of April 17, 2016 (P.L.84,
11 No.16), known as the Medical Marijuana Act.

12 (f) Limited immunity.--If a legitimate cannabis-related
13 business fails to provide the notice required under section
14 5506(a) (relating to required disclosures) to a financial
15 institution or insurer, the financial institution or insurer
16 shall not be deemed in violation of this chapter solely because
17 the financial institution or insurer was not notified and
18 continued to provide services beyond the date at which such
19 services should or could have been terminated as a result of the
20 suspension or revocation of the permit, registration or
21 certification.

22 § 5505. Access to information.

23 (a) Voluntary disclosures.--Section 1307 of the act of April
24 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act,
25 shall not prohibit the voluntary disclosure of any records or
26 other information by a legitimate cannabis-related business, or
27 a business associate to a financial institution or insurer, as
28 necessary to obtain financial or insurance services to the
29 extent not prohibited by and consistent with any applicable
30 requirements of the Health Insurance Portability and

1 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936)
2 privacy regulation as promulgated by the United States
3 Department of Health and Human Services under 45 CFR Pts. 160
4 (relating to general administrative requirements, 162 (relating
5 to administrative requirements) and 164 (relating to security
6 and privacy) and 16 CFR Pt. 313 (relating to privacy of consumer
7 financial information).

8 (b) Restrictions on use of records.--A financial
9 institution, or insurer receiving access to information under
10 subsection (a), the distribution of which would otherwise be
11 prohibited, may only use the information as necessary to satisfy
12 due diligence obligations required to provide financial or
13 insurance services to persons participating in the medical
14 marijuana program established under the Medical Marijuana Act
15 and may not disclose the information records to other persons
16 except for information:

17 (1) required for the filing of suspicious activity
18 reports with the United States Department of the Treasury or
19 the investigation of related reports;

20 (2) requested by the institution's primary regulator,
21 the Federal Deposit Insurance Corporation or the National
22 Credit Union Administration for the purposes of conducting an
23 examination of the institution;

24 (3) as necessary to respond to court orders or subpoenas
25 after providing the person authorizing the release of the
26 records and the institution's primary regulator the
27 opportunity to object to the order or subpoena; or

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

30 § 5506. Required disclosures.

1 (a) Notification by legitimate cannabis-related business.--
2 If a legitimate cannabis-related business obtains financial or
3 insurance services from a financial institution or insurer doing
4 business in this Commonwealth, the business shall, within five
5 business days, provide notice to the financial institution or
6 insurer if a cannabis-related permit, registration or
7 certification held by the business or its affiliates under the
8 laws of this Commonwealth or a law established by another state
9 is suspended or revoked.

10 (b) Penalty.--If a legitimate cannabis-related business
11 fails to give the notice required under subsection (a) to a
12 financial institution or insurer, the business or business
13 associate may be assessed a civil penalty up to \$500 per day,
14 not to exceed \$25,000, until the notice is provided. The
15 Department of Banking and Securities shall have authorization to
16 assess civil penalties for failure to give notice under this
17 section to a financial institution, and the Insurance Department
18 shall have authorization to assess civil penalties for failure
19 to give the notice under this section to an insurer.

20 § 5507. Ordinary business deductions.

21 For each taxable year beginning on or after January 1, 2022,
22 the provisions of section 280E of the Internal Revenue Code of
23 1986 (Public Law 99-514, 26 U.S.C. § 280E) shall not apply to
24 legitimate cannabis-related businesses. Legitimate cannabis-
25 related businesses shall be allowed a deduction from a tax
26 imposed under Articles III or IV of the act of March 4, 1971
27 (P.L.6, No.2), known as the Tax Reform Code of 1971, on ordinary
28 and necessary expenses paid or incurred during the taxable year.

29 § 5508. Regulations and statements of policy.

30 The Department of Banking and Securities and the Insurance

1 Department may adopt statements of policy or regulations to
2 implement this chapter and to provide guidance to financial
3 institutions and insurers providing financial or insurance
4 services to legitimate cannabis-related businesses and business
5 associates of a legitimate cannabis-related business.

6 Section 2. The addition of 12 Pa.C.S. §§ 5503 and 5504 shall
7 apply to the provision of financial or insurance services to a
8 legitimate cannabis-related business or a business associate of
9 a legitimate cannabis-related business on or after the effective
10 date of this section.

11 Section 3. Repeals are as follows:

12 (1) The General Assembly declares that the repeals under
13 paragraph (2) are necessary to effectuate the addition of 12
14 Pa.C.S. § 5507.

15 (2) Articles III and IV of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
17 repealed insofar as they are inconsistent with 12 Pa.C.S. §
18 5507.

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

20 (1) The addition of 12 Pa.C.S. § 5505 shall take effect
21 in 90 days.

22 (2) The remainder of this act shall take effect
23 immediately.