

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, KANE AND HAYWOOD, MARCH 25, 2022

AS AMENDED ON SECOND CONSIDERATION, APRIL 5, 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.~~ 5507. 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 Federal law, the laws of this  
28 Commonwealth or a 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) any applicable consumer protection laws of this  
29 Commonwealth;

30 (3) any additional requirements applicable to the

1 institution established for the provision of services to a  
2 legitimate cannabis-related business or its business  
3 associates by a Federal financial regulatory agency, the  
4 Department of Banking and Securities or a financial  
5 regulatory agency of the state under which the institution is  
6 organized; and

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

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

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

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

21 (3) any additional requirements applicable to the  
22 insurer established for the provision of services to a  
23 legitimate cannabis-related business or its business  
24 associates by the Insurance Department; and

25 (4) to the extent the insurer is providing services to a  
26 legitimate cannabis-related business or its business  
27 associates in another jurisdiction, any additional  
28 requirements applicable to the insurer established for the  
29 provision of the services by an insurance regulatory agency  
30 of that jurisdiction.

1 (c) No requirement to provide services.--Nothing in this  
2 chapter shall require a depository institution, an entity  
3 performing a financial service for or in association with a  
4 financial institution or an insurer to provide financial or  
5 insurance services to a legitimate cannabis-related business or  
6 the business associates of a legitimate cannabis-related  
7 business or to any other business.

8 § 5504. Protections for financial institutions, insurers,  
9 legitimate cannabis-related businesses and business  
10 associates.

11 (a) Actions of government agencies.--Subject to the  
12 authorizations of section 5503(a) and (b) (relating to services  
13 to legitimate cannabis-related businesses), no agency or  
14 political subdivision of this Commonwealth may:

15 (1) prohibit, penalize or otherwise discourage a  
16 financial institution or insurer from providing financial or  
17 insurance services to a legitimate cannabis-related business  
18 or the business associates of a legitimate cannabis-related  
19 business;

20 (2) recommend, incentivize or encourage a financial  
21 institution or insurer not to offer financial or insurance  
22 services to an account holder, or downgrade or cancel  
23 services provided to the account holder, solely because the  
24 account holder is a legitimate cannabis-related business or a  
25 business associate of a legitimate cannabis-related business;

26 (3) take adverse or corrective supervisory action on a  
27 loan made to a legitimate cannabis-related business or a  
28 business associate of a legitimate cannabis-related business  
29 solely because the loan has been made to a legitimate  
30 cannabis-related business or a business associate of a



1 legitimate cannabis-related business;

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

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

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

24 (c) Criminal prosecution and civil claims.--No financial  
25 institution or insurer, or the directors, officers, employees,  
26 agents, owners, shareholders or members of a financial  
27 institution or insurer, shall be subject to a criminal  
28 prosecution, sanction or claim for damages or any equitable  
29 remedy, solely because the institution or insurer is providing  
30 financial or insurance services to or for the benefit of a

1 legitimate cannabis-related business or the business associates  
2 of a legitimate cannabis-related business.

3 (d) Proceeds of legitimate cannabis-related business  
4 activities.--The proceeds of any transaction involving the  
5 activities of a legitimate cannabis-related business may not be  
6 considered proceeds from an unlawful activity, solely because  
7 the transaction involves the proceeds from a legitimate  
8 cannabis-related business or a business associate of a  
9 legitimate cannabis-related business.

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

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

27 § 5505. Access to information.

28 (a) Voluntary disclosures.--Section 1307 of the act of April  
29 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act,  
30 shall not prohibit the voluntary disclosure of any records or

1 other information by a legitimate cannabis-related business, or  
2 a business associate to a financial institution or insurer, as  
3 necessary to obtain financial or insurance services to the  
4 extent not prohibited by and consistent with any applicable  
5 requirements of the Health Insurance Portability and  
6 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936)  
7 privacy regulation as promulgated by the United States  
8 Department of Health and Human Services under 45 CFR Pts. 160  
9 (relating to general administrative requirements, 162 (relating  
10 to administrative requirements) and 164 (relating to security  
11 and privacy) and 16 CFR Pt. 313 (relating to privacy of consumer  
12 financial information).

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

22 (1) required for the filing of suspicious activity  
23 reports with the United States Department of the Treasury or  
24 the investigation of related reports;

25 (2) requested by the institution's primary regulator,  
26 the Federal Deposit Insurance Corporation or the National  
27 Credit Union Administration for the purposes of conducting an  
28 examination of the institution;

29 (3) as necessary to respond to court orders or subpoenas  
30 after providing the person authorizing the release of the

1 records and the institution's primary regulator the  
2 opportunity to object to the order or subpoena; or  
3 (4) as authorized by a person who is the subject to the  
4 confidential information.

5 § 5506. Required disclosures.

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

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

25 ~~§ 5507. Ordinary business deductions.~~

<--

26 ~~For each taxable year beginning on or after January 1, 2022,~~  
27 ~~notwithstanding the provisions of section 280E of the Internal~~  
28 ~~Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 280E), a~~  
29 ~~legitimate cannabis related business shall be allowed a~~  
30 ~~deduction from a tax imposed under Articles III or IV of the act~~

1 ~~of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of~~  
2 ~~1971, on ordinary and necessary expenses paid or incurred during~~  
3 ~~the taxable year.~~

4 ~~§ 5508.~~ § 5507. Regulations and statements of policy. <--

5 The Department of Banking and Securities and the Insurance  
6 Department may adopt statements of policy or regulations to  
7 implement this chapter and to provide guidance to financial  
8 institutions and insurers providing financial or insurance  
9 services to legitimate cannabis-related businesses and business  
10 associates of a legitimate cannabis-related business.

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

16 ~~Section 3. Repeals are as follows:~~ <--

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

20 ~~(2) Articles III and IV of the act of March 4, 1971~~  
21 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, are~~  
22 ~~repealed insofar as they are inconsistent with 12 Pa.C.S. §~~  
23 ~~5507.~~

24 Section 4 3. This act shall take effect immediately. <--