

AMENDMENT

OFFERED BY MR. PERLMUTTER OF COLORADO

Add at the end the following:

1 **DIVISION _____—SAFE BANKING**

2 **SEC. 5421. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.**

3 (a) **SHORT TITLE.**—This division may be cited as the
4 “Secure And Fair Enforcement Banking Act of 2022” or
5 the “SAFE Banking Act of 2022”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this division is as follows:

DIVISION L—SAFE BANKING

- Sec. 5421. Short title; table of contents; purpose.
- Sec. 5422. Safe harbor for depository institutions.
- Sec. 5423. Protections for ancillary businesses.
- Sec. 5424. Protections under Federal law.
- Sec. 5425. Rules of construction.
- Sec. 5426. Requirements for filing suspicious activity reports.
- Sec. 5427. Guidance and examination procedures.
- Sec. 5428. Annual diversity and inclusion report.
- Sec. 5429. GAO study on diversity and inclusion.
- Sec. 5430. GAO study on effectiveness of certain reports on finding certain persons.
- Sec. 5431. Application of sections 5421 through 5435 with respect to hemp-related legitimate businesses and hemp-related service providers.
- Sec. 5432. Banking services for hemp-related legitimate businesses and hemp-related service providers.
- Sec. 5433. Requirements for deposit account termination requests and orders.
- Sec. 5434. Definitions.
- Sec. 5435. Discretionary surplus funds.
- Sec. 5436. State expungement opportunity grant program.
- Sec. 5437. Protection of Second Amendment rights of adults whose use of marijuana in accordance with State or Tribal law.

8 (c) **PURPOSE.**—The purpose of this division is to in-
9 crease public safety by ensuring access to financial serv-

1 ices to cannabis-related legitimate businesses and service
2 providers and reducing the amount of cash at such busi-
3 nesses.

4 **SEC. 5422. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

5 (a) IN GENERAL.—A Federal banking regulator may
6 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; or

16 (5) prohibit or penalize a depository insti-
17 tution (or entity performing a financial service
18 for or in association with a depository institu-
19 tion) for, or otherwise discourage a depository
20 institution (or entity performing a financial
21 service for or in association with a depository
22 institution) from, engaging in a financial service
23 for a cannabis-related legitimate business or
24 service provider.

1 (b) SAFE HARBOR APPLICABLE TO DE NOVO INSTI-
2 TUTIONS.—Subsection (a) shall apply to an institution ap-
3 plying for a depository institution charter to the same ex-
4 tent as such subsection applies to a depository institution.

5 **SEC. 5423. PROTECTIONS FOR ANCILLARY BUSINESSES.**

6 For the purposes of sections 1956 and 1957 of title
7 18, United States Code, and all other provisions of Fed-
8 eral law, the proceeds from a transaction involving activi-
9 ties of a cannabis-related legitimate business or service
10 provider shall not be considered proceeds from an unlawful
11 activity solely because—

12 (1) the transaction involves proceeds from a
13 cannabis-related legitimate business or service pro-
14 vider; or

15 (2) the transaction involves proceeds from—

16 (A) cannabis-related activities described in
17 section 5434(4)(B) conducted by a cannabis-re-
18 lated legitimate business; or

19 (B) activities described in section
20 5434(13)(A) conducted by a service provider.

21 **SEC. 5424. PROTECTIONS UNDER FEDERAL LAW.**

22 (a) IN GENERAL.—With respect to providing a finan-
23 cial service to a cannabis-related legitimate business
24 (where such cannabis-related legitimate business operates
25 within a State, political subdivision of a State, or Indian

1 country that allows the cultivation, production, manufac-
2 ture, sale, transportation, display, dispensing, distribution,
3 or purchase of cannabis pursuant to a law or regulation
4 of such State, political subdivision, or Indian Tribe that
5 has jurisdiction over the Indian country, as applicable) or
6 a service provider (wherever located), a depository institu-
7 tion, entity performing a financial service for or in associa-
8 tion with a depository institution, or insurer that provides
9 a financial service to a cannabis-related legitimate busi-
10 ness or service provider, and the officers, directors, and
11 employees of that depository institution, entity, or insurer
12 may not be held liable pursuant to any Federal law or
13 regulation—

14 (1) solely for providing such a financial service;

15 or

16 (2) for further investing any income derived
17 from such a financial service.

18 (b) PROTECTIONS FOR FEDERAL RESERVE BANKS

19 AND FEDERAL HOME LOAN BANKS.—With respect to

20 providing a service to a depository institution that pro-

21 vides a financial service to a cannabis-related legitimate

22 business (where such cannabis-related legitimate business

23 operates within a State, political subdivision of a State,

24 or Indian country that allows the cultivation, production,

25 manufacture, sale, transportation, display, dispensing, dis-

1 tribution, or purchase of cannabis pursuant to a law or
2 regulation of such State, political subdivision, or Indian
3 Tribe that has jurisdiction over the Indian country, as ap-
4 plicable) or service provider (wherever located), a Federal
5 reserve bank or Federal Home Loan Bank, and the offi-
6 cers, directors, and employees of the Federal reserve bank
7 or Federal Home Loan Bank, may not be held liable pur-
8 suant to any Federal law or regulation—

9 (1) solely for providing such a service; or

10 (2) for further investing any income derived
11 from such a service.

12 (c) PROTECTIONS FOR INSURERS.—With respect to
13 engaging in the business of insurance within a State, polit-
14 ical subdivision of a State, or Indian country that allows
15 the cultivation, production, manufacture, sale, transpor-
16 tation, display, dispensing, distribution, or purchase of
17 cannabis pursuant to a law or regulation of such State,
18 political subdivision, or Indian Tribe that has jurisdiction
19 over the Indian country, as applicable, an insurer that en-
20 gages in the business of insurance with a cannabis-related
21 legitimate business or service provider or who otherwise
22 engages with a person in a transaction permissible under
23 State law related to cannabis, and the officers, directors,
24 and employees of that insurer may not be held liable pur-
25 suant to any Federal law or regulation—

1 (1) solely for engaging in the business of insur-
2 ance; or

3 (2) for further investing any income derived
4 from the business of insurance.

5 (d) FORFEITURE.—

6 (1) DEPOSITORY INSTITUTIONS.—A depository
7 institution that has a legal interest in the collateral
8 for a loan or another financial service provided to an
9 owner, employee, or operator of a cannabis-related
10 legitimate business or service provider, or to an
11 owner or operator of real estate or equipment that
12 is leased or sold to a cannabis-related legitimate
13 business or service provider, shall not be subject to
14 criminal, civil, or administrative forfeiture of that
15 legal interest pursuant to any Federal law for pro-
16 viding such loan or other financial service.

17 (2) FEDERAL RESERVE BANKS AND FEDERAL
18 HOME LOAN BANKS.—A Federal reserve bank or
19 Federal Home Loan Bank that has a legal interest
20 in the collateral for a loan or another financial serv-
21 ice provided to a depository institution that provides
22 a financial service to a cannabis-related legitimate
23 business or service provider, or to an owner or oper-
24 ator of real estate or equipment that is leased or
25 sold to a cannabis-related legitimate business or

1 service provider, shall not be subject to criminal,
2 civil, or administrative forfeiture of that legal inter-
3 est pursuant to any Federal law for providing such
4 loan or other financial service.

5 **SEC. 5425. RULES OF CONSTRUCTION.**

6 (a) NO REQUIREMENT TO PROVIDE FINANCIAL
7 SERVICES.—Nothing in sections 5421 through 5435 shall
8 require a depository institution, entity performing a finan-
9 cial service for or in association with a depository institu-
10 tion, or insurer to provide financial services to a cannabis-
11 related legitimate business, service provider, or any other
12 business.

13 (b) GENERAL EXAMINATION, SUPERVISORY, AND
14 ENFORCEMENT AUTHORITY.—Nothing in sections 5421
15 through 5435 may be construed in any way as limiting
16 or otherwise restricting the general examination, super-
17 visory, and enforcement authority of the Federal banking
18 regulators, provided that the basis for any supervisory or
19 enforcement action is not the provision of financial serv-
20 ices to a cannabis-related legitimate business or service
21 provider.

22 (c) BUSINESS OF INSURANCE.—Nothing in sections
23 5421 through 5435 shall interfere with the regulation of
24 the business of insurance in accordance with the Act of
25 March 9, 1945 (59 Stat. 33, chapter 20; 15 U.S.C. 1011

1 et seq.) (commonly known as the “McCarran-Ferguson
2 Act”) and the Dodd-Frank Wall Street Reform and Con-
3 sumer Protection Act (12 U.S.C. 5301 et seq.).

4 **SEC. 5426. REQUIREMENTS FOR FILING SUSPICIOUS ACTIV-**
5 **ITY REPORTS.**

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

8 “(5) REQUIREMENTS FOR CANNABIS-RELATED
9 LEGITIMATE BUSINESSES.—

10 “(A) IN GENERAL.—With respect to a fi-
11 nancial institution or any director, officer, em-
12 ployee, or agent of a financial institution that
13 reports a suspicious transaction pursuant to
14 this subsection, if the reason for the report re-
15 lates to a cannabis-related legitimate business
16 or service provider, the report shall comply with
17 appropriate guidance issued by the Financial
18 Crimes Enforcement Network. Not later than
19 the end of the 180-day period beginning on the
20 date of enactment of this paragraph, the Sec-
21 retary shall update the February 14, 2014,
22 guidance titled ‘BSA Expectations Regarding
23 Marijuana-Related Businesses’ (FIN–2014–
24 G001) to ensure that the guidance is consistent
25 with the purpose and intent of the SAFE

1 Banking Act of 2022 and does not significantly
2 inhibit the provision of financial services to a
3 cannabis-related legitimate business or service
4 provider in a State, political subdivision of a
5 State, or Indian country that has allowed the
6 cultivation, production, manufacture, transpor-
7 tation, display, dispensing, distribution, sale, or
8 purchase of cannabis pursuant to law or regula-
9 tion of such State, political subdivision, or In-
10 dian Tribe that has jurisdiction over the Indian
11 country.

12 “(B) DEFINITIONS.—For purposes of this
13 paragraph:

14 “(i) CANNABIS.—The term ‘cannabis’
15 has the meaning given the term ‘mari-
16 huana’ in section 102 of the Controlled
17 Substances Act (21 U.S.C. 802).

18 “(ii) CANNABIS-RELATED LEGITIMATE
19 BUSINESS.—The term ‘cannabis-related le-
20 gitimate business’ has the meaning given
21 that term in section 5434 of the SAFE
22 Banking Act of 2022.

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

1 “(iv) INDIAN TRIBE.—The term ‘In-
2 dian Tribe’ has the meaning given that
3 term in section 102 of the Federally Rec-
4 ognized Indian Tribe List Act of 1994 (25
5 U.S.C. 479a).

6 “(v) FINANCIAL SERVICE.—The term
7 ‘financial service’ has the meaning given
8 that term in section 5434 of the SAFE
9 Banking Act of 2022.

10 “(vi) SERVICE PROVIDER.—The term
11 ‘service provider’ has the meaning given
12 that term in section 5434 of the SAFE
13 Banking Act of 2022.

14 “(vii) STATE.—The term ‘State’
15 means each of the several States, the Dis-
16 trict of Columbia, the Commonwealth of
17 Puerto Rico, and any territory or posses-
18 sion of the United States.”.

19 **SEC. 5427. GUIDANCE AND EXAMINATION PROCEDURES.**

20 Not later than 180 days after the date of enactment
21 of this Act, the Financial Institutions Examination Coun-
22 cil shall develop uniform guidance and examination proce-
23 dures for depository institutions that provide financial
24 services to cannabis-related legitimate businesses and
25 service providers.

1 **SEC. 5428. ANNUAL DIVERSITY AND INCLUSION REPORT.**

2 The Federal banking regulators shall issue an annual
3 report to Congress containing—

4 (1) information and data on the availability of
5 access to financial services for minority-owned and
6 women-owned cannabis-related legitimate businesses;
7 and

8 (2) any regulatory or legislative recommenda-
9 tions for expanding access to financial services for
10 minority-owned and women-owned cannabis-related
11 legitimate businesses.

12 **SEC. 5429. GAO STUDY ON DIVERSITY AND INCLUSION.**

13 (a) STUDY.—The Comptroller General of the United
14 States shall carry out a study on the barriers to market-
15 place entry, including in the licensing process, and the ac-
16 cess to financial services for potential and existing minor-
17 ity-owned and women-owned cannabis-related legitimate
18 businesses.

19 (b) REPORT.—The Comptroller General shall issue a
20 report to the Congress—

21 (1) containing all findings and determinations
22 made in carrying out the study required under sub-
23 section (a); and

24 (2) containing any regulatory or legislative rec-
25 ommendations for removing barriers to marketplace
26 entry, including in the licensing process, and ex-

1 panding access to financial services for potential and
2 existing minority-owned and women-owned cannabis-
3 related legitimate businesses.

4 **SEC. 5430. GAO STUDY ON EFFECTIVENESS OF CERTAIN RE-**
5 **PORTS ON FINDING CERTAIN PERSONS.**

6 Not later than 2 years after the date of the enact-
7 ment of this Act, the Comptroller General of the United
8 States shall carry out a study on the effectiveness of re-
9 ports on suspicious transactions filed pursuant to section
10 5318(g) of title 31, United States Code, at finding individ-
11 uals or organizations suspected or known to be engaged
12 with transnational criminal organizations and whether any
13 such engagement exists in a State, political subdivision,
14 or Indian Tribe that has jurisdiction over Indian country
15 that allows the cultivation, production, manufacture, sale,
16 transportation, display, dispensing, distribution, or pur-
17 chase of cannabis. The study shall examine reports on sus-
18 picious transactions as follows:

19 (1) During the period of 2014 until the date of
20 the enactment of this Act, reports relating to mari-
21 juana-related businesses.

22 (2) During the 1-year period after date of the
23 enactment of this Act, reports relating to cannabis-
24 related legitimate businesses.

1 **SEC. 5431. APPLICATION OF SECTIONS 5421 THROUGH 5435**
2 **WITH RESPECT TO HEMP-RELATED LEGITI-**
3 **MATE BUSINESSES AND HEMP-RELATED**
4 **SERVICE PROVIDERS.**

5 (a) IN GENERAL.—The provisions of sections 5421
6 through 5435 (other than sections 5426 and 5430) shall
7 apply with respect to hemp-related legitimate businesses
8 and hemp-related service providers in the same manner
9 as such provisions apply with respect to cannabis-related
10 legitimate businesses and service providers.

11 (b) DEFINITIONS.—In sections 5421 through 5435:

12 (1) CBD.—The term “CBD” means
13 cannabidiol.

14 (2) HEMP.—The term “hemp” has the meaning
15 given that term under section 297A of the Agricul-
16 tural Marketing Act of 1946 (7 U.S.C. 1639o).

17 (3) HEMP-RELATED LEGITIMATE BUSINESS.—
18 The term “hemp-related legitimate business” means
19 a manufacturer, producer, or any person or company
20 that—

21 (A) engages in any activity described in
22 subparagraph (B) in conformity with the Agri-
23 cultural Improvement Act of 2018 (Public Law
24 115–334) and the regulations issued to imple-
25 ment such Act by the Department of Agri-
26 culture, where applicable, and the law of a

1 State or political subdivision thereof or Indian
2 Tribe; and

3 (B) participates in any business or orga-
4 nized activity that involves handling hemp,
5 hemp-derived CBD products, and other hemp-
6 derived cannabinoid products, including culti-
7 vating, producing, extracting, manufacturing,
8 selling, transporting, displaying, dispensing, dis-
9 tributing, or purchasing hemp, hemp-derived
10 CBD products, and other hemp-derived
11 cannabinoid products.

12 (4) HEMP-RELATED SERVICE PROVIDER.—The
13 term “hemp-related service provider”—

14 (A) means a business, organization, or
15 other person that—

16 (i) sells goods or services to a hemp-
17 related legitimate business; or

18 (ii) provides any business services, in-
19 cluding the sale or lease of real or any
20 other property, legal or other licensed serv-
21 ices, or any other ancillary service, relating
22 to hemp, hemp-derived CBD products, or
23 other hemp-derived cannabinoid products;
24 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 hemp, hemp-derived CBD products, or
5 other hemp-derived cannabinoid products, in-
6 cluding cultivating, producing, manufacturing,
7 selling, transporting, displaying, dispensing, dis-
8 tributing, or purchasing hemp, hemp-derived
9 CBD products, and other hemp-derived
10 cannabinoid products.

11 **SEC. 5432. BANKING SERVICES FOR HEMP-RELATED LE-**
12 **GITIMATE BUSINESSES AND HEMP-RELATED**
13 **SERVICE PROVIDERS.**

14 (a) FINDINGS.—The Congress finds that—

15 (1) the Agriculture Improvement Act of 2018
16 (Public Law 115–334) legalized hemp by removing
17 it from the definition of “marihuana” under the
18 Controlled Substances Act;

19 (2) despite the legalization of hemp, some hemp
20 businesses (including producers, manufacturers, and
21 retailers) continue to have difficulty gaining access
22 to banking products and services; and

23 (3) businesses involved in the sale of hemp-de-
24 rived CBD products are particularly affected, due to
25 confusion about the legal status of such products.

1 (b) FEDERAL BANKING REGULATORS’ HEMP BANK-
2 ING GUIDANCE.—Not later than the end of the 90-day pe-
3 riod beginning on the date of enactment of this Act, the
4 Federal banking regulators shall update their existing
5 guidance, as applicable, regarding the provision of finan-
6 cial services to hemp-related legitimate businesses and
7 hemp-related service providers to address—

8 (1) compliance with financial institutions’ exist-
9 ing obligations under Federal laws and imple-
10 menting regulations determined relevant by the Fed-
11 eral banking regulators, including subchapter II of
12 chapter 53 of title 31, United States Code, and its
13 implementing regulation in conformity with sections
14 5421 through 5435 and the Department of Agri-
15 culture’s rules regulating domestic hemp production
16 (7 CFR 990); and

17 (2) best practices for financial institutions to
18 follow when providing financial services, including
19 processing payments, to hemp-related legitimate
20 businesses and hemp-related service providers.

21 (c) DEFINITIONS.—In this section:

22 (1) FINANCIAL INSTITUTION.—The term “fi-
23 nancial institution”—

1 (A) has the meaning given that term under
2 section 5312(a) of title 31, United States Code;
3 and

4 (B) includes a bank holding company, as
5 defined under section 2(a) of the Bank Holding
6 Company Act of 1956 (12 U.S.C. 1841(a)).

7 (2) HEMP TERMS.—The terms “CBD”,
8 “hemp”, “hemp-related legitimate business”, and
9 “hemp-related service provider” have the meaning
10 given those terms, respectively, under section 5431.

11 **SEC. 5433. REQUIREMENTS FOR DEPOSIT ACCOUNT TERMI-**
12 **NATION REQUESTS AND ORDERS.**

13 (a) TERMINATION REQUESTS OR ORDERS MUST BE
14 VALID.—

15 (1) IN GENERAL.—An appropriate Federal
16 banking agency may not formally or informally re-
17 quest or order a depository institution to terminate
18 a specific customer account or group of customer ac-
19 counts or to otherwise restrict or discourage a de-
20 pository institution from entering into or maintain-
21 ing a banking relationship with a specific customer
22 or group of customers unless—

23 (A) the agency has a valid reason for such
24 request or order; and

1 (B) such reason is not based solely on rep-
2 utation risk.

3 (2) TREATMENT OF NATIONAL SECURITY
4 THREATS.—If an appropriate Federal banking agen-
5 cy believes a specific customer or group of customers
6 is, or is acting as a conduit for, an entity which—

7 (A) poses a threat to national security;

8 (B) is involved in terrorist financing;

9 (C) is an agency of the Government of
10 Iran, North Korea, Syria, or any country listed
11 from time to time on the State Sponsors of
12 Terrorism list;

13 (D) is located in, or is subject to the juris-
14 diction of, any country specified in subpara-
15 graph (C); or

16 (E) does business with any entity described
17 in subparagraph (C) or (D), unless the appro-
18 priate Federal banking agency determines that
19 the customer or group of customers has used
20 due diligence to avoid doing business with any
21 entity described in subparagraph (C) or (D),

22 such belief shall satisfy the requirement under para-
23 graph (1).

24 (b) NOTICE REQUIREMENT.—

1 (1) IN GENERAL.—If an appropriate Federal
2 banking agency formally or informally requests or
3 orders a depository institution to terminate a spe-
4 cific customer account or a group of customer ac-
5 counts, the agency shall—

6 (A) provide such request or order to the
7 institution in writing; and

8 (B) accompany such request or order with
9 a written justification for why such termination
10 is needed, including any specific laws or regula-
11 tions the agency believes are being violated by
12 the customer or group of customers, if any.

13 (2) JUSTIFICATION REQUIREMENT.—A jus-
14 tification described under paragraph (1)(B) may not
15 be based solely on the reputation risk to the deposi-
16 tory institution.

17 (c) CUSTOMER NOTICE.—

18 (1) NOTICE REQUIRED.—Except as provided
19 under paragraph (2) or as otherwise prohibited from
20 being disclosed by law, if an appropriate Federal
21 banking agency orders a depository institution to
22 terminate a specific customer account or a group of
23 customer accounts, the depository institution shall
24 inform the specific customer or group of customers

1 of the justification for the customer's account termi-
2 nation described under subsection (b).

3 (2) NOTICE PROHIBITED.—

4 (A) NOTICE PROHIBITED IN CASES OF NA-
5 TIONAL SECURITY.—If an appropriate Federal
6 banking agency requests or orders a depository
7 institution to terminate a specific customer ac-
8 count or a group of customer accounts based on
9 a belief that the customer or customers pose a
10 threat to national security, or are otherwise de-
11 scribed under subsection (a)(2), neither the de-
12 pository institution nor the appropriate Federal
13 banking agency may inform the customer or
14 customers of the justification for the customer's
15 account termination.

16 (B) NOTICE PROHIBITED IN OTHER
17 CASES.—If an appropriate Federal banking
18 agency determines that the notice required
19 under paragraph (1) may interfere with an au-
20 thorized criminal investigation, neither the de-
21 pository institution nor the appropriate Federal
22 banking agency may inform the specific cus-
23 tomer or group of customers of the justification
24 for the customer's account termination.

1 (d) REPORTING REQUIREMENT.—Each appropriate
2 Federal banking agency shall issue an annual report to
3 the Congress stating—

4 (1) the aggregate number of specific customer
5 accounts that the agency requested or ordered a de-
6 pository institution to terminate during the previous
7 year; and

8 (2) the legal authority on which the agency re-
9 lied in making such requests and orders and the fre-
10 quency on which the agency relied on each such au-
11 thority.

12 (e) DEFINITIONS.—For purposes of this section:

13 (1) APPROPRIATE FEDERAL BANKING AGEN-
14 CY.—The term “appropriate Federal banking agen-
15 cy” means—

16 (A) the appropriate Federal banking agen-
17 cy, as defined under section 3 of the Federal
18 Deposit Insurance Act (12 U.S.C. 1813); and

19 (B) the National Credit Union Administra-
20 tion, in the case of an insured credit union.

21 (2) DEPOSITORY INSTITUTION.—The term “de-
22 pository institution” means—

23 (A) a depository institution, as defined
24 under section 3 of the Federal Deposit Insur-
25 ance Act (12 U.S.C. 1813); and

1 (B) an insured credit union.

2 **SEC. 5434. DEFINITIONS.**

3 In this sections 5421 through 5435:

4 (1) BUSINESS OF INSURANCE.—The term
5 “business of insurance” has the meaning given such
6 term in section 1002 of the Dodd-Frank Wall Street
7 Reform and Consumer Protection Act (12 U.S.C.
8 5481).

9 (2) CANNABIS.—The term “cannabis” has the
10 meaning given the term “marihuana” in section 102
11 of the Controlled Substances Act (21 U.S.C. 802).

12 (3) CANNABIS PRODUCT.—The term “cannabis
13 product” means any article which contains cannabis,
14 including an article which is a concentrate, an edi-
15 ble, a tincture, a cannabis-infused product, or a top-
16 ical.

17 (4) CANNABIS-RELATED LEGITIMATE BUSI-
18 NESS.—The term “cannabis-related legitimate busi-
19 ness” means a manufacturer, producer, or any per-
20 son or company that—

21 (A) engages in any activity described in
22 subparagraph (B) pursuant to a law established
23 by a State or a political subdivision of a State,
24 as determined by such State or political subdivi-
25 sion; and

1 (B) participates in any business or orga-
2 nized activity that involves handling cannabis or
3 cannabis products, including cultivating, pro-
4 ducing, manufacturing, selling, transporting,
5 displaying, dispensing, distributing, or pur-
6 chasing cannabis or cannabis products.

7 (5) DEPOSITORY INSTITUTION.—The term “de-
8 pository institution” means—

9 (A) a depository institution as defined in
10 section 3(c) of the Federal Deposit Insurance
11 Act (12 U.S.C. 1813(c));

12 (B) a Federal credit union as defined in
13 section 101 of the Federal Credit Union Act
14 (12 U.S.C. 1752); or

15 (C) a State credit union as defined in sec-
16 tion 101 of the Federal Credit Union Act (12
17 U.S.C. 1752).

18 (6) FEDERAL BANKING REGULATOR.—The
19 term “Federal banking regulator” means each of the
20 Board of Governors of the Federal Reserve System,
21 the Bureau of Consumer Financial Protection, the
22 Federal Deposit Insurance Corporation, the Federal
23 Housing Finance Agency, the Financial Crimes En-
24 forcement Network, the Office of Foreign Asset
25 Control, the Office of the Comptroller of the Cur-

1 rency, the National Credit Union Administration,
2 the Department of the Treasury, or any Federal
3 agency or department that regulates banking or fi-
4 nancial services, as determined by the Secretary of
5 the Treasury.

6 (7) FINANCIAL SERVICE.—The term “financial
7 service”—

8 (A) means a financial product or service,
9 as defined in section 1002 of the Dodd-Frank
10 Wall Street Reform and Consumer Protection
11 Act (12 U.S.C. 5481), regardless if the cus-
12 tomer receiving the product or service is a con-
13 sumer or commercial entity;

14 (B) means a financial product or service,
15 or any combination of products and services,
16 permitted to be provided by—

17 (i) a national bank or a financial sub-
18 sidiary pursuant to the authority provided
19 under—

20 (I) the provision designated
21 “Seventh” of section 5136 of the Re-
22 vised Statutes of the United States
23 (12 U.S.C. 24); or

1 (II) section 5136A of the Revised
2 Statutes of the United States (12
3 U.S.C. 24a); and

4 (ii) a Federal credit union, pursuant
5 to the authority provided under the Fed-
6 eral Credit Union Act;

7 (C) includes the business of insurance;

8 (D) includes, whether performed directly or
9 indirectly, the authorizing, processing, clearing,
10 settling, billing, transferring for deposit, trans-
11 mitting, delivering, instructing to be delivered,
12 reconciling, collecting, or otherwise effectuating
13 or facilitating of payments or funds, where such
14 payments or funds are made or transferred by
15 any means, including by the use of credit cards,
16 debit cards, other payment cards, or other ac-
17 cess devices, accounts, original or substitute
18 checks, or electronic funds transfers;

19 (E) includes acting as a money transmit-
20 ting business which directly or indirectly makes
21 use of a depository institution in connection
22 with effectuating or facilitating a payment for
23 a cannabis-related legitimate business or service
24 provider in compliance with section 5330 of

1 title 31, United States Code, and any applicable
2 State law; and

3 (F) includes acting as an armored car
4 service for processing and depositing with a de-
5 pository institution or a Federal reserve bank
6 with respect to any monetary instruments (as
7 defined under section 1956(e)(5) of title 18,
8 United States Code.

9 (8) INDIAN COUNTRY.—The term “Indian coun-
10 try” has the meaning given that term in section
11 1151 of title 18.

12 (9) INDIAN TRIBE.—The term “Indian Tribe”
13 has the meaning given that term in section 102 of
14 the Federally Recognized Indian Tribe List Act of
15 1994 (25 U.S.C. 479a).

16 (10) INSURER.—The term “insurer” has the
17 meaning given that term under section 313(r) of
18 title 31, United States Code.

19 (11) MANUFACTURER.—The term “manufac-
20 turer” means a person who manufactures, com-
21 pounds, converts, processes, prepares, or packages
22 cannabis or cannabis products.

23 (12) PRODUCER.—The term “producer” means
24 a person who plants, cultivates, harvests, or in any
25 way facilitates the natural growth of cannabis.

1 (13) SERVICE PROVIDER.—The term “service
2 provider”—

3 (A) means a business, organization, or
4 other person that—

5 (i) sells goods or services to a can-
6 nabis-related legitimate business; or

7 (ii) provides any business services, in-
8 cluding the sale or lease of real or any
9 other property, legal or other licensed serv-
10 ices, or any other ancillary service, relating
11 to cannabis; and

12 (B) does not include a business, organiza-
13 tion, or other person that participates in any
14 business or organized activity that involves han-
15 dling cannabis or cannabis products, including
16 cultivating, producing, manufacturing, selling,
17 transporting, displaying, dispensing, distrib-
18 uting, or purchasing cannabis or cannabis prod-
19 ucts.

20 (14) STATE.—The term “State” means each of
21 the several States, the District of Columbia, the
22 Commonwealth of Puerto Rico, and any territory or
23 possession of the United States.

1 **SEC. 5435. DISCRETIONARY SURPLUS FUNDS.**

2 Section 7(a)(3)(A) of the Federal Reserve Act (12
3 U.S.C. 289(a)(3)(A)) is amended by reducing the dollar
4 figure by \$6,000,000.

5 **SEC. 5436. STATE EXPUNGEMENT OPPORTUNITY GRANT**
6 **PROGRAM.**

7 (a) NAME OF PROGRAM.—The grant program estab-
8 lished under this section shall be known as the “State
9 Expungement Opportunity Grant Program”.

10 (b) AUTHORIZATION.—The Attorney General is au-
11 thorized to make grants to States and units of local gov-
12 ernment to reduce the financial and administrative burden
13 of expunging convictions for cannabis offenses that are
14 available to individuals who have been convicted of such
15 offenses under the laws of the State.

16 (c) APPLICATION.—The chief executive of a State or
17 unit of local government seeking a grant under this section
18 shall submit to the Attorney General an application at
19 such time, in such manner, and containing such informa-
20 tion as the Attorney General may reasonably require.

21 (d) USE OF FUNDS.—Grants under this section shall
22 be used—

23 (1) for technology to provide cost-effective legal
24 relief at scale;

25 (2) to automate the process of expunging con-
26 victions for cannabis offenses;

1 (3) for clinics, including legal clinics, that assist
2 individuals through the expungement process;

3 (4) to implement the notice requirement de-
4 scribed in subsection (e);

5 (5) to seal records of conviction for cannabis of-
6 fenses, if appropriate; and

7 (6) for other innovative partnerships to provide
8 wide-scale relief to individuals who are eligible for
9 the expungement of a conviction for a cannabis of-
10 fense under the laws of the State.

11 (e) NOTICE REQUIREMENT.—A jurisdiction that re-
12 ceives a grant under this section shall—

13 (1) publish on a publicly accessible website in-
14 formation about the availability and process of
15 expunging convictions for cannabis offenses, includ-
16 ing information for individuals living in a different
17 jurisdiction who were convicted of a cannabis offense
18 in that jurisdiction;

19 (2) implement a process to notify each indi-
20 vidual convicted of a cannabis offense when—

21 (A) the expungement process has begun;

22 and

23 (B) when the expungement is complete,
24 which shall, if applicable, include an official cer-

1 tificate of expungement (including any other
2 similar document used by the jurisdiction).

3 (f) REPORT.—A jurisdiction that receives a grant
4 under this section shall submit to the Attorney General
5 a report describing the uses of such funds, and how many
6 convictions for cannabis offenses have been expunged
7 using such funds.

8 (g) STUDY.—

9 (1) IN GENERAL.—Not later than one year
10 after the date of enactment of this Act, the Attorney
11 General shall conduct a study and submit to Con-
12 gress and make publicly available on the website of
13 the Department of Justice a report on—

14 (A) the effects of the appearance on an in-
15 dividual’s criminal record report of a conviction
16 for a criminal offense related to cannabis, in-
17 cluding—

18 (i) disqualifying him or her from fu-
19 ture opportunities in housing and employ-
20 ment;

21 (ii) increasing the likelihood that the
22 individual will have future involvement
23 with the criminal justice system;

24 (iii) how any such effects differ based
25 on demographics, including race; and

1 (iv) any other matters determined ap-
2 propriate by the Attorney General; and

3 (B) the costs incurred by States for incar-
4 cerating an individual convicted for a criminal
5 offense related to cannabis.

6 (2) CLARIFICATION.—The report under para-
7 graph (1) may not include any personally identifi-
8 able information.

9 (h) DEFINITIONS.—In this section:

10 (1) The term “cannabis” means either mari-
11 juana or cannabis as defined under the State law
12 authorizing the sale or use of cannabis in which the
13 individual or entity is located.

14 (2) The term “cannabis offense” means a
15 criminal offense related to cannabis that, under
16 State law, is no longer an offense or that was des-
17 ignated a lesser offense or for which the penalty was
18 reduced under State law pursuant to or following
19 the adoption of a State law authorizing the sale or
20 use of cannabis.

21 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated \$2,000,000 to carry out this
23 section for each of fiscal years 2023 through 2032.

1 **SEC. 5437. PROTECTION OF SECOND AMENDMENT RIGHTS**
2 **OF ADULTS WHOSE USE OF MARIJUANA IN**
3 **ACCORDANCE WITH STATE OR TRIBAL LAW.**

4 Section 921(a) of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(36) The term ‘unlawful user of or addicted to
7 any controlled substance’ shall not include a person
8 by reason of unlawful use of or addiction to mari-
9 huana (as defined in section 102(16) of the Con-
10 trolled Substances Act) if—

11 “(A) the person resides in a State, or on
12 lands under the jurisdiction of an Indian tribe
13 (as defined in section 4 of the Indian-Self De-
14 termination and Education Assistance Act), the
15 laws of which permit the use of marihuana by
16 an adult; and

17 “(B) the use of marihuana by the person
18 in the State or on those lands, as the case may
19 be, does not violate the laws of the State or In-
20 dian tribe, as the case may be.”.

