

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R.1595
OFFERED BY MR. PERLMUTTER OF COLORADO**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; PURPOSE.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Secure And Fair Enforcement Banking Act of 2019” or
4 the “SAFE Banking Act of 2019”.

5 (b) **PURPOSE.**—The purpose of this Act is to increase
6 public safety by ensuring access to financial services to
7 cannabis-related legitimate businesses and service pro-
8 viders and reducing the amount of cash at such busi-
9 nesses.

10 SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.

11 A Federal banking regulator may not—

12 (1) terminate or limit the deposit insur-
13 ance or share insurance of a depository institu-
14 tion under the Federal Deposit Insurance Act
15 (12 U.S.C. 1811 et seq.), the Federal Credit
16 Union Act (12 U.S.C. 1751 et seq.), or take
17 any other adverse action against a depository
18 institution under section 8 of the Federal De-

1 posit Insurance Act (12 U.S.C. 1818) solely be-
2 cause the depository institution provides or has
3 provided financial services to a cannabis-related
4 legitimate business or service provider;

5 (2) prohibit, penalize, or otherwise discour-
6 age a depository institution from providing fi-
7 nancial services to a cannabis-related legitimate
8 business or service provider or to a State, polit-
9 ical subdivision of a State, or Indian Tribe that
10 exercises jurisdiction over cannabis-related le-
11 gitimate businesses;

12 (3) recommend, incentivize, or encourage a
13 depository institution not to offer financial serv-
14 ices to an account holder, or to downgrade or
15 cancel the financial services offered to an ac-
16 count holder solely because—

17 (A) the account holder is a cannabis-
18 related legitimate business or service pro-
19 vider, or is an employee, owner, or oper-
20 ator of a cannabis-related legitimate busi-
21 ness or service provider;

22 (B) the account holder later becomes
23 an employee, owner, or operator of a can-
24 nabis-related legitimate business or service
25 provider; or

1 (C) the depository institution was not
2 aware that the account holder is an em-
3 ployee, owner, or operator of a cannabis-re-
4 lated legitimate business or service pro-
5 vider;

6 (4) take any adverse or corrective super-
7 visory action on a loan made to—

8 (A) a cannabis-related legitimate busi-
9 ness or service provider, solely because the
10 business is a cannabis-related legitimate
11 business or service provider;

12 (B) an employee, owner, or operator
13 of a cannabis-related legitimate business or
14 service provider, solely because the em-
15 ployee, owner, or operator is employed by,
16 owns, or operates a cannabis-related legiti-
17 mate business or service provider, as appli-
18 cable; or

19 (C) an owner or operator of real es-
20 tate or equipment that is leased to a can-
21 nabis-related legitimate business or service
22 provider, solely because the owner or oper-
23 ator of the real estate or equipment leased
24 the equipment or real estate to a cannabis-

1 related legitimate business or service pro-
2 vider, as applicable; or

3 (5) prohibit or penalize a depository insti-
4 tution (or entity performing a financial service
5 for or in association with a depository institu-
6 tion) for, or otherwise discourage a depository
7 institution (or entity performing a financial
8 service for or in association with a depository
9 institution) from, engaging in a financial service
10 for a cannabis-related legitimate business or
11 service provider.

12 **SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.**

13 For purposes of sections 1956 and 1957 of title 18,
14 United States Code, and all other provisions of Federal
15 law, the proceeds from a transaction conducted by a can-
16 nabis-related legitimate business or service provider shall
17 not be considered as proceeds from an unlawful activity
18 solely because the transaction was conducted by a can-
19 nabis-related legitimate business or service provider, as
20 applicable.

21 **SEC. 4. PROTECTIONS UNDER FEDERAL LAW.**

22 (a) IN GENERAL.—With respect to providing a finan-
23 cial service to a cannabis-related legitimate business or
24 service provider within a State, political subdivision of a
25 State, or Indian country that allows the cultivation, pro-

1 duction, manufacture, sale, transportation, display, dis-
2 pensing, distribution, or purchase of cannabis pursuant to
3 a law or regulation of such State, political subdivision, or
4 Indian Tribe that has jurisdiction over the Indian country,
5 as applicable, a depository institution or entity performing
6 a financial service for or in association with a depository
7 institution that provides a financial service to a cannabis-
8 related legitimate business or service provider, and the of-
9 ficers, directors, and employees of that depository institu-
10 tion or entity may not be held liable pursuant to any Fed-
11 eral law or regulation—

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

13 or

14 (2) for further investing any income derived
15 from such a financial service.

16 (b) PROTECTIONS FOR FEDERAL RESERVE
17 BANKS.—With respect to providing a service to a deposi-
18 tory institution that provides a financial service to a can-
19 nabis-related legitimate business or service provider
20 (where such financial service is provided within a State,
21 political subdivision of a State, or Indian country that al-
22 lows the cultivation, production, manufacture, sale, trans-
23 portation, display, dispensing, distribution, or purchase of
24 cannabis pursuant to a law or regulation of such State,
25 political subdivision, or Indian Tribe that has jurisdiction

1 over the Indian country, as applicable), a Federal reserve
2 bank, and the officers, directors, and employees of the
3 Federal reserve bank, may not be held liable pursuant to
4 any Federal law or regulation—

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

6 (2) for further investing any income derived
7 from such a service.

8 (c) FORFEITURE.—

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

20 (2) FEDERAL RESERVE BANKS.—A Federal re-
21 serve bank that has a legal interest in the collateral
22 for a loan or another financial service provided to an
23 owner, employee, or operator of a depository institu-
24 tion that provides a financial services to a cannabis-
25 related legitimate business or service provider, or to

1 an owner or operator of real estate or equipment
2 that is leased or sold to such a depository institu-
3 tion, shall not be subject to criminal, civil, or admin-
4 istrative forfeiture of that legal interest pursuant to
5 any Federal law for providing such loan or other fi-
6 nancial service.

7 **SEC. 5. RULE OF CONSTRUCTION.**

8 Nothing in this Act shall require a depository institu-
9 tion or entity performing a financial service for or in asso-
10 ciation with a depository institution to provide financial
11 services to a cannabis-related legitimate business or serv-
12 ice provider.

13 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
14 **REPORTS.**

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

17 “(5) REQUIREMENTS FOR CANNABIS-RELATED
18 LEGITIMATE BUSINESSES.—

19 “(A) IN GENERAL.—With respect to a fi-
20 nancial institution or any director, officer, em-
21 ployee, or agent of a financial institution that
22 reports a suspicious transaction pursuant to
23 this subsection, if the reason for the report re-
24 lates to a cannabis-related legitimate business
25 or service provider, the report shall comply with

1 appropriate guidance issued by the Financial
2 Crimes Enforcement Network. The Secretary
3 shall ensure that the guidance is consistent with
4 the purpose and intent of the SAFE Banking
5 Act of 2019 and does not significantly inhibit
6 the provision of financial services to a cannabis-
7 related legitimate business or service provider in
8 a State, political subdivision of a State, or In-
9 dian country that has allowed the cultivation,
10 production, manufacture, transportation, dis-
11 play, dispensing, distribution, sale, or purchase
12 of cannabis pursuant to law or regulation of
13 such State, political subdivision, or Indian
14 Tribe that has jurisdiction over the Indian
15 country.

16 “(B) DEFINITIONS.—For purposes of this
17 paragraph:

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

22 “(ii) CANNABIS-RELATED LEGITIMATE
23 BUSINESS.—The term ‘cannabis-related le-
24 gitimate business’ has the meaning given

1 that term in section 10 of the SAFE
2 Banking Act of 2019.

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

6 “(iv) INDIAN TRIBE.—The term ‘In-
7 dian Tribe’ has the meaning given that
8 term in section 102 of the Federally Rec-
9 ognized Indian Tribe List Act of 1994 (25
10 U.S.C. 479a).

11 “(v) FINANCIAL SERVICE.—The term
12 ‘financial service’ has the meaning given
13 that term in section 10 of the SAFE
14 Banking Act of 2019.

15 “(vi) SERVICE PROVIDER.—The term
16 ‘service provider’ has the meaning given
17 that term in section 10 of the SAFE
18 Banking Act of 2019.

19 “(vii) STATE.—The term ‘State’
20 means each of the several States, the Dis-
21 trict of Columbia, Puerto Rico, and any
22 territory or possession of the United
23 States.”.

1 **SEC. 7. GUIDANCE AND EXAMINATION PROCEDURES.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Financial Institutions Examination Coun-
4 cil shall develop uniform guidance and examination proce-
5 dures for depository institutions that provide financial
6 services to cannabis-related legitimate businesses and
7 service providers.

8 **SEC. 8. ANNUAL DIVERSITY AND INCLUSION REPORT.**

9 The Federal banking regulators shall issue an annual
10 report to Congress containing—

11 (1) information and data on the availability of
12 access to financial services for minority-owned and
13 women-owned cannabis-related legitimate businesses;
14 and

15 (2) any regulatory or legislative recommenda-
16 tions for expanding access to financial services for
17 minority-owned and women-owned cannabis-related
18 legitimate businesses.

19 **SEC. 9. GAO STUDY ON DIVERSITY AND INCLUSION.**

20 (a) STUDY.—The Comptroller General of the United
21 States shall carry out a study on the barriers to market-
22 place entry, including in the licensing process, and the ac-
23 cess to financial services for potential and existing minor-
24 ity-owned and women-owned cannabis-related legitimate
25 businesses.

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

3 (1) containing all findings and determinations
4 made in carrying out the study required under sub-
5 section (a); and

6 (2) containing any regulatory or legislative rec-
7 ommendations for removing barriers to marketplace
8 entry, including in the licensing process, and ex-
9 panding access to financial services for potential and
10 existing minority-owned and women-owned cannabis-
11 related legitimate businesses.

12 **SEC. 10. DEFINITIONS.**

13 In this Act:

14 (1) CANNABIS.—The term “cannabis” has the
15 meaning given the term “marihuana” in section 102
16 of the Controlled Substances Act (21 U.S.C. 802).

17 (2) CANNABIS PRODUCT.—The term “cannabis
18 product” means any article which contains cannabis,
19 including an article which is a concentrate, an edi-
20 ble, a tincture, a cannabis-infused product, or a top-
21 ical.

22 (3) CANNABIS-RELATED LEGITIMATE BUSI-
23 NESS.—The term “cannabis-related legitimate busi-
24 ness” means a manufacturer, producer, or any per-
25 son or company that—

1 (A) engages in any activity described in
2 subparagraph (B) pursuant to a law established
3 by a State or a political subdivision of a State,
4 as determined by such State or political subdivi-
5 sion; and

6 (B) participates in any business or orga-
7 nized activity that involves handling cannabis or
8 cannabis products, including cultivating, pro-
9 ducing, manufacturing, selling, transporting,
10 displaying, dispensing, distributing, or pur-
11 chasing cannabis or cannabis products.

12 (4) DEPOSITORY INSTITUTION.—The term “de-
13 pository institution” means—

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

17 (B) a Federal credit union as defined in
18 section 101 of the Federal Credit Union Act
19 (12 U.S.C. 1752); or

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

23 (5) FEDERAL BANKING REGULATOR.—The
24 term “Federal banking regulator” means each of the
25 Board of Governors of the Federal Reserve System,

1 the Bureau of Consumer Financial Protection, the
2 Federal Deposit Insurance Corporation, the Finan-
3 cial Crimes Enforcement Network, the Office of For-
4 eign Asset Control, the Office of the Comptroller of
5 the Currency, the National Credit Union Adminis-
6 tration, the Department of the Treasury, or any
7 Federal agency or department that regulates bank-
8 ing or financial services, as determined by the Sec-
9 retary of the Treasury.

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

12 (A) means a financial product or service,
13 as defined in section 1002 of the Dodd-Frank
14 Wall Street Reform and Consumer Protection
15 Act (12 U.S.C. 5481);

16 (B) includes, whether performed directly or
17 indirectly, the authorizing, processing, clearing,
18 settling, billing, transferring for deposit, trans-
19 mitting, delivering, instructing to be delivered,
20 reconciling, collecting, or otherwise effectuating
21 or facilitating of payments or funds, where such
22 payments or funds are made or transferred by
23 any means, including by the use of credit cards,
24 debit cards, other payment cards, or other ac-

1 cess devices, accounts, original or substitute
2 checks, or electronic funds transfers;

3 (C) includes acting as a money transmit-
4 ting business which directly or indirectly makes
5 use of a depository institution in connection
6 with effectuating or facilitating a payment for
7 a cannabis-related legitimate business or service
8 provider in compliance with section 5330 of
9 title 31, United States Code, and any applicable
10 State law; and

11 (D) includes acting as an armored car
12 service for processing and depositing with a de-
13 pository institution or the Board of Governors
14 of the Federal Reserve System with respect to
15 any monetary instruments (as defined under
16 section 1956(c)(5) of title 18, United States
17 Code.

18 (7) INDIAN COUNTRY.—The term “Indian coun-
19 try” has the meaning given that term in section
20 1151 of title 18.

21 (8) INDIAN TRIBE.—The term “Indian Tribe”
22 has the meaning given that term in section 102 of
23 the Federally Recognized Indian Tribe List Act of
24 1994 (25 U.S.C. 479a).

1 (9) MANUFACTURER.—The term “manufac-
2 turer” means a person who manufactures, com-
3 pounds, converts, processes, prepares, or packages
4 cannabis or cannabis products.

5 (10) PRODUCER.—The term “producer” means
6 a person who plants, cultivates, harvests, or in any
7 way facilitates the natural growth of cannabis.

8 (11) SERVICE PROVIDER.—The term “service
9 provider”—

10 (A) means a business, organization, or
11 other person that—

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

14 (ii) provides any business services, in-
15 cluding the sale or lease of real or any
16 other property, legal or other licensed serv-
17 ices, or any other ancillary service, relating
18 to cannabis; and

19 (B) does not include a business, organiza-
20 tion, or other person that participates in any
21 business or organized activity that involves han-
22 dling cannabis or cannabis products, including
23 cultivating, producing, manufacturing, selling,
24 transporting, displaying, dispensing, distrib-

1 uting, or purchasing cannabis or cannabis prod-
2 ucts.

3 (12) STATE.—The term “State” means each of
4 the several States, the District of Columbia, Puerto
5 Rico, and any territory or possession of the United
6 States.

