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2D SESSION

S. 4622

To establish protections for radio and television stations that provide advertising services to cannabis-related legitimate businesses and service providers for such businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2022

Mr. LUJÁN (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish protections for radio and television stations that provide advertising services to cannabis-related legitimate businesses and service providers for such businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.**

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

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

- Sec. 1. Short title; table of contents; purpose.
- Sec. 2. Definitions.
- Sec. 3. Safety for advertising.
- Sec. 4. Protections for ancillary businesses.
- Sec. 5. Protections under Federal law.
- Sec. 6. Application of this Act with respect to hemp-related legitimate businesses and hemp-related service providers.
- Sec. 7. GAO report.

1 (c) PURPOSE.—The purpose of this Act is to ensure
 2 access to advertising services from radio and television
 3 stations for cannabis-related legitimate businesses and
 4 service providers.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

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

10 (2) CANNABIS PRODUCT.—The term “cannabis
 11 product” means any article that contains cannabis,
 12 including an article that is a concentrate, an edible,
 13 a tincture, a cannabis-infused product, or a topical.

14 (3) CANNABIS-RELATED LEGITIMATE BUSI-
 15 NESS.—The term “cannabis-related legitimate busi-
 16 ness” means a manufacturer, a producer, or any
 17 person or company that—

18 (A) engages in any activity described in
 19 subparagraph (B) pursuant to a law established
 20 by a State or political subdivision of a State, as

1 determined by the State or political subdivision;
2 and

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

9 (4) CBD.—The term “CBD” means
10 cannabidiol.

11 (5) HEMP.—The term “hemp” has the meaning
12 given the term in section 297A of the Agricultural
13 Marketing Act of 1946 (7 U.S.C. 1639o).

14 (6) INDIAN COUNTRY.—The term “Indian coun-
15 try” has the meaning given that term in section
16 1151 of title 18, United States Code.

17 (7) INDIAN TRIBE.—The term “Indian Tribe”
18 has the meaning given the term “Indian tribe” in
19 section 102 of the Federally Recognized Indian
20 Tribe List Act of 1994 (25 U.S.C. 5130).

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

1 (9) PRODUCER.—The term “producer” means a
2 person who plants, cultivates, harvests, or in any
3 way facilitates the natural growth of cannabis.

4 (10) SERVICE PROVIDER.—The term “service
5 provider”—

6 (A) means a business, organization, or
7 other person that—

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

10 (ii) provides any business services, in-
11 cluding the sale of advertising, the sale or
12 lease of real or any other property, legal or
13 other licensed services, or any other ancil-
14 lary service, relating to cannabis; and

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

23 (11) STATE.—The term “State” means each of
24 the several States, the District of Columbia, the

1 Commonwealth of Puerto Rico, and any territory or
2 possession of the United States.

3 **SEC. 3. SAFETY FOR ADVERTISING.**

4 (a) IN GENERAL.—The Federal Communications
5 Commission may not—

6 (1) with respect to an authorization relating to
7 a radio or television broadcast station, deny, fail to
8 renew for a full term or condition the authorization,
9 decline to approve an application for authority to as-
10 sign the authorization or transfer direct or indirect
11 control of the licensee, require an early renewal ap-
12 plication, or otherwise impair the authorization, be-
13 cause the station broadcast or otherwise transmitted
14 advertising of a cannabis-related legitimate business
15 or service provider, if the activities of the cannabis-
16 related legitimate business or service provider were,
17 at the time of the broadcast or other transmission
18 of advertising, authorized in the State, political sub-
19 division of a State, or Indian country in which the
20 community of license of the station is located;

21 (2) commence any proceeding against, issue a
22 notice of apparent liability or inquiry to, or impose
23 a forfeiture penalty on a radio or television broad-
24 cast station under title V of the Communications
25 Act of 1934 (47 U.S.C. 501 et seq.) because the sta-

1 tion broadcast or otherwise transmitted advertising
2 of a cannabis-related legitimate business or service
3 provider, if the activities of the cannabis-related le-
4 gitimate business or service provider were, at the
5 time of the broadcast or other transmission of adver-
6 tising, authorized in the State, political subdivision
7 of a State, or Indian country in which the commu-
8 nity of license of the station is located; or

9 (3) deny or designate for hearing any applica-
10 tion for an authorization relating to a radio or tele-
11 vision broadcast station solely because—

12 (A) the applicant—

13 (i) is or has been a cannabis-related
14 legitimate business or service provider; or

15 (ii) is an owner, officer, operator, or
16 employee of a cannabis-related legitimate
17 business or service provider; or

18 (B) an owner, officer, director, or employee
19 of the applicant, any parent entity of the appli-
20 cant, or the applicant has provided or is pro-
21 viding services, including advertising services,
22 equipment, or other support, for the operation
23 of a cannabis-related legitimate business or
24 service provider.

1 (b) LABELING REQUIREMENT.—Subsection (a) shall
2 only apply with respect to the advertising of products sold
3 by a cannabis-related legitimate business if—

4 (1) the advertisement—

5 (A) contains a disclosure that states, “This
6 product has not been evaluated by the Food
7 and Drug Administration. There may be health
8 risks associated with consumption of this prod-
9 uct.”; or

10 (B) complies with any applicable labeling
11 requirements or other requirements adopted by
12 the Surgeon General or the Food and Drug Ad-
13 ministration for advertising of cannabis or can-
14 nabis products; and

15 (2) the advertiser has reliable evidence that not
16 less than 70 percent of the audience for the adver-
17 tisement is reasonably expected to be not less than
18 21 years of age, with the burden of proof regarding
19 the expected audience composition lying with the ad-
20 vertiser.

21 **SEC. 4. PROTECTIONS FOR ANCILLARY BUSINESSES.**

22 For the purposes of sections 1956 and 1957 of title
23 18, United States Code, section 421 of the Controlled Sub-
24 stances Act (21 U.S.C. 862), and any other provision of
25 Federal law, the proceeds from a transaction involving ac-

1 tivities of a cannabis-related legitimate business or service
 2 provider shall not be considered proceeds from an unlawful
 3 activity or require the denial of Federal benefits solely be-
 4 cause—

5 (1) the transaction involves proceeds from a
 6 cannabis-related legitimate business or service pro-
 7 vider; or

8 (2) the transaction involves proceeds from—

9 (A) cannabis-related activities described in
 10 section 2(3)(B) conducted by a cannabis-related
 11 legitimate business; or

12 (B) activities described in section 2(10)(A)
 13 conducted by a service provider.

14 **SEC. 5. PROTECTIONS UNDER FEDERAL LAW.**

15 With respect to providing advertising service to a can-
 16 nabis-related legitimate business (where the cannabis-re-
 17 lated legitimate business operates within a State, a polit-
 18 ical subdivision of a State, or Indian country in which the
 19 cultivation, production, manufacture, sale, transportation,
 20 display, dispensing, distribution, or purchase of cannabis
 21 is allowed pursuant to a law or regulation of the State,
 22 the political subdivision, or the Indian Tribe with jurisdic-
 23 tion over the Indian country, respectively) or a service pro-
 24 vider (wherever located), a radio or television station li-
 25 censed to a community within a State, a political subdivi-

1 sion of a State, or Indian country in which the activities
 2 of the cannabis-related legitimate business promoted in
 3 the advertising service are allowed, a depository institu-
 4 tion, insurer, or other entity that provides a financial or
 5 other service to such a radio or television station providing
 6 advertising service to a cannabis-related legitimate busi-
 7 ness or service provider, and the officers, directors, and
 8 employees of such radio or television station, depository
 9 institution, insurer, or other entity may not be held liable
 10 pursuant to any Federal law or regulation, including sub-
 11 section (b) or (c) of section 403 of the Controlled Sub-
 12 stances Act (21 U.S.C. 843)—

13 (1) solely for providing such advertising service
 14 or related financial or other service; or

15 (2) for further investing any income derived
 16 from such advertising service or related financial or
 17 other service.

18 **SEC. 6. APPLICATION OF THIS ACT WITH RESPECT TO**
 19 **HEMP-RELATED LEGITIMATE BUSINESSES**
 20 **AND HEMP-RELATED SERVICE PROVIDERS.**

21 (a) IN GENERAL.—This Act shall apply with respect
 22 to a hemp-related legitimate business or hemp-related
 23 service provider in the same manner as the Act applies
 24 with respect to a cannabis-related legitimate business or
 25 service provider.

1 (b) DEFINITIONS.—In this section:

2 (1) HEMP-RELATED LEGITIMATE BUSINESS.—

3 The term “hemp-related legitimate business” means
4 a manufacturer, producer, or any person that—

5 (A) engages in any activity described in
6 subparagraph (B) in conformity with—

7 (i) subtitle G of the Agricultural Mar-
8 keting Act of 1946 (7 U.S.C. 1639o et
9 seq.) and the regulations issued to imple-
10 ment that subtitle by the Department of
11 Agriculture, where applicable; and

12 (ii) the applicable law of a State, po-
13 litical subdivision of a State, or Indian
14 Tribe; and

15 (B) participates in any business or orga-
16 nized activity that involves handling hemp,
17 hemp-derived CBD products, and other hemp-
18 derived cannabinoid products, including culti-
19 vating, producing, extracting, manufacturing,
20 selling, transporting, displaying, dispensing, or
21 purchasing hemp, hemp-derived CBD products,
22 and other hemp-derived cannabinoid products.

23 (2) HEMP-RELATED SERVICE PROVIDER.—The
24 term “hemp-related service provider”—

1 (A) means a business, organization, or
2 other person that—

3 (i) sells goods or services to a hemp-
4 related legitimate business; or

5 (ii) provides any business services, in-
6 cluding the sale of advertising, the sale or
7 lease of real or any other property, legal or
8 other licensed services, or any other ancil-
9 lary service, relating to hemp, hemp-de-
10 rived CBD products, or other hemp-derived
11 cannabinoid products; 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 hemp, hemp-derived CBD products, or
16 other hemp-derived cannabinoid products, in-
17 cluding cultivating, producing, manufacturing,
18 selling, transporting, displaying, dispensing, dis-
19 tributing, or purchasing hemp, hemp-derived
20 CBD products, and other hemp-derived
21 cannabinoid products.

22 **SEC. 7. GAO REPORT.**

23 (a) DEFINITIONS.—In this section—

1 (1) the term “small business concern” has the
2 meaning given the term in section 3 of the Small
3 Business Act (15 U.S.C. 632); and

4 (2) the term “socially and economically dis-
5 advantaged individual” has the meaning given the
6 term in section 8(d) of the Small Business Act (15
7 U.S.C. 637(d)) and relevant subcontracting regula-
8 tions prescribed under such section 8(d), except that
9 women are presumed to be socially and economically
10 disadvantaged.

11 (b) REPORT.—Not later than 1 year after the date
12 of enactment of this Act, the Comptroller General of the
13 United States shall—

14 (1) conduct a study of cannabis-related legiti-
15 mate businesses that—

16 (A) are small business concerns; or

17 (B) are owned by a socially and economi-
18 cally disadvantaged individual; and

19 (2) submit a report on the results of the study
20 conducted under paragraph (1) to Congress.

21 (c) CONTENTS.—The report submitted under sub-
22 section (b) shall include—

23 (1) an evaluation of whether cannabis-related
24 legitimate businesses that are small business con-
25 cerns or are owned by a socially and economically

1 disadvantaged individual face systemic barriers to
2 access service providers compared to other cannabis-
3 related legitimate businesses; and

4 (2) recommendations to Congress to facilitate
5 the access of cannabis-related legitimate businesses
6 to service providers, particularly cannabis-related le-
7 gitimate businesses that—

8 (A) are small business concerns; or

9 (B) are owned by a socially and economi-
10 cally disadvantaged individual.

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