

117TH CONGRESS
2D SESSION

S. 5131

To ensure that certain loan programs of the Small Business Administration are made available to cannabis-related legitimate businesses and service providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2022

Ms. ROSEN introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To ensure that certain loan programs of the Small Business Administration are made available to cannabis-related legitimate businesses and service providers, 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.**

4 This Act may be cited as the “Fair Access for Can-
5 nabis Small Businesses Act”.

1 **SEC. 2. 7(a) LOANS TO CANNABIS-RELATED LEGITIMATE**
 2 **BUSINESSES AND SERVICE PROVIDERS.**

3 Section 7(a) of the Small Business Act (15 U.S.C.
 4 636(a)) is amended by adding at the end the following:

5 “(38) LOANS TO CANNABIS-RELATED LEGITI-
 6 MATE BUSINESSES AND SERVICE PROVIDERS.—

7 “(A) DEFINITIONS.—In this paragraph:

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

12 “(ii) CANNABIS PRODUCT.—The term
 13 ‘cannabis product’ means any article that
 14 contains cannabis, including an article that
 15 is a concentrate, an edible, a tincture, a
 16 cannabis-infused product, or a topical.

17 “(iii) CANNABIS-RELATED LEGITI-
 18 MATE BUSINESS.—The term ‘cannabis-re-
 19 lated legitimate business’ means a manu-
 20 facturer, producer, or any person or com-
 21 pany that is a small business concern and
 22 that—

23 “(I) engages in any activity de-
 24 scribed in subclause (II) pursuant to
 25 a law established by a State or a po-
 26 litical subdivision of a State, as deter-

1 mined by the State or political sub-
2 division; and

3 “(II) participates in any business
4 or organized activity that involves
5 handling cannabis or cannabis prod-
6 ucts, including cultivating, producing,
7 manufacturing, selling, transporting,
8 displaying, dispensing, distributing, or
9 purchasing cannabis or cannabis prod-
10 ucts.

11 “(iv) MANUFACTURER.—The term
12 ‘manufacturer’ means a person who manu-
13 factures, compounds, converts, processes,
14 prepares, or packages cannabis or cannabis
15 products.

16 “(v) PRODUCER.—The term ‘pro-
17 ducer’ means a person who plants, cul-
18 tivates, harvests, or in any way facilitates
19 the natural growth of cannabis.

20 “(vi) SERVICE PROVIDER.—The term
21 ‘service provider’—

22 “(I) means a business, organiza-
23 tion, or other person that—

1 “(aa) sells goods or services
2 to a cannabis-related legitimate
3 business; or

4 “(bb) provides any business
5 services, including the sale or
6 lease of real or any other prop-
7 erty, legal or other licensed serv-
8 ices, or any other ancillary serv-
9 ice, relating to cannabis; and

10 “(II) does not include a business,
11 organization, or other person that
12 participates in any business or orga-
13 nized activity that involves handling
14 cannabis or cannabis products, includ-
15 ing cultivating, producing, manufac-
16 turing, selling, transporting, dis-
17 playing, dispensing, distributing, or
18 purchasing cannabis or cannabis prod-
19 ucts.

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

“(B) LOANS.—Notwithstanding any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Administrator may not decline to provide a guarantee for a loan under this subsection, and a lender may not decline to make a loan made under this subsection, to an otherwise eligible small business concern solely because the concern is a cannabis-related legitimate business or service provider.”.

SEC. 3. DISASTER LOANS TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (15) the following:

“(16) ASSISTANCE TO CANNABIS-RELATED LEGITIMATE BUSINESSES AND SERVICE PROVIDERS.—Notwithstanding any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Administrator may not decline to provide assistance under this subsection to an otherwise eligible borrower solely because the borrower is a cannabis-related legitimate business or service provider (as defined in subsection (a)(38)).”.

1 **SEC. 4. MICROLOANS TO CANNABIS-RELATED LEGITIMATE**
 2 **BUSINESSES AND SERVICE PROVIDERS.**

3 Section 7(m) of the Small Business Act (15 U.S.C.
 4 636(m)(13)) is amended by adding at the end the fol-
 5 lowing:

6 “(14) ASSISTANCE TO CANNABIS-RELATED LE-
 7 GITIMATE BUSINESSES AND SERVICE PROVIDERS.—
 8 Notwithstanding any provision of the Controlled
 9 Substances Act (21 U.S.C. 801 et seq.), the Admin-
 10 istrator may not prohibit an eligible intermediary
 11 from providing assistance under this subsection to
 12 an otherwise eligible borrower solely because the bor-
 13 rower is a cannabis-related legitimate business or
 14 service provider (as defined in subsection (a)(38)).”.

15 **SEC. 5. SMALL BUSINESS INVESTMENT COMPANY DEBEN-**
 16 **TURES TO FINANCE CANNABIS-RELATED LE-**
 17 **GITIMATE BUSINESSES AND SERVICE PRO-**
 18 **VIDERS.**

19 Part A of title III of the Small Business Investment
 20 Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding
 21 at the end the following:

22 **“SEC. 321. DEBENTURES TO FINANCE CANNABIS-RELATED**
 23 **LEGITIMATE BUSINESSES AND SERVICE PRO-**
 24 **VIDERS.**

25 “(a) GUARANTEES.—Notwithstanding any provision
 26 of the Controlled Substances Act (21 U.S.C. 801 et seq.),

1 the Administrator may not decline to purchase or guar-
 2 antee a debenture issued under this title to an otherwise
 3 eligible small business investment company solely because
 4 the small business investment company provides financing
 5 to an entity that is a cannabis-related legitimate business
 6 or service provider (as defined in paragraph (38) of section
 7 7(a) of the Small Business Act (15 U.S.C. 636(a)).

8 “(b) OTHER ASSISTANCE.—Notwithstanding any
 9 provision of the Controlled Substances Act (21 U.S.C. 801
 10 et seq.), the Administrator may not prohibit a small busi-
 11 ness investment company from providing assistance under
 12 this title to an otherwise eligible small business concern
 13 solely because the small business concern is a cannabis-
 14 related legitimate business or service provider (as defined
 15 in paragraph (38) of section 7(a) of the Small Business
 16 Act (15 U.S.C. 636(a)).”.

17 **SEC. 6. STATE OR LOCAL DEVELOPMENT COMPANY LOANS**
 18 **TO FINANCE CANNABIS-RELATED LEGITI-**
 19 **MATE BUSINESSES AND SERVICE PROVIDERS.**

20 Title V of the Small Business Investment Act of 1958
 21 (15 U.S.C. 695 et seq.) is amended by adding at the end
 22 the following:

1 **“SEC. 511. LOANS TO FINANCE CANNABIS-RELATED LEGITI-**
 2 **MATE BUSINESSES AND SERVICE PROVIDERS.**

3 “(a) GUARANTEES.—Notwithstanding any provision
 4 of the Controlled Substances Act (21 U.S.C. 801 et seq.),
 5 the Administrator may not decline to guarantee a debenture
 6 issued under this title for the purpose of making 1
 7 or more loans to small business concerns solely because
 8 the small business concern is a cannabis-related legitimate
 9 business or service provider (as defined in paragraph (38)
 10 of section 7(a) of the Small Business Act (15 U.S.C.
 11 636(a)).

12 “(b) OTHER ASSISTANCE.—Notwithstanding any
 13 provision of the Controlled Substances Act (21 U.S.C. 801
 14 et seq.), a qualified State or local development company
 15 may not decline an application for a loan under this title
 16 submitted by an otherwise eligible small business concern
 17 solely because the small business concern is a cannabis-
 18 related legitimate business or service provider (as defined
 19 in paragraph (38) of section 7(a) of the Small Business
 20 Act (15 U.S.C. 636(a))).”.

21 **SEC. 7. ASSISTANCE FROM RESOURCE PARTNERS FOR CAN-**
 22 **NABIS-RELATED LEGITIMATE BUSINESSES**
 23 **AND SERVICE PROVIDERS.**

24 (a) SMALL BUSINESS DEVELOPMENT CENTERS.—
 25 Section 21(c) of the Small Business Act (15 U.S.C.
 26 648(c)) is amended by adding at the end the following:

1 “(9) SERVICES FOR CANNABIS-RELATED LE-
 2 GITIMATE BUSINESSES AND SERVICE PROVIDERS.—
 3 Notwithstanding any provision of the Controlled
 4 Substances Act (21 U.S.C. 801 et seq.), a small
 5 business development center may not decline to pro-
 6 vide services to an otherwise eligible small business
 7 concern under this section solely because the small
 8 business concern is a cannabis-related legitimate
 9 business or service provider (as defined in section
 10 7(a)(38)).”.

11 (b) WOMEN’S BUSINESS CENTERS.—Section 29 of
 12 the Small Business Act (15 U.S.C. 656) is amended by
 13 adding at the end the following:

14 “(p) SERVICES FOR CANNABIS-RELATED LEGITI-
 15 MATE BUSINESSES AND SERVICE PROVIDERS.—Notwith-
 16 standing any provision of the Controlled Substances Act
 17 (21 U.S.C. 801 et seq.), a women’s business center may
 18 not decline to provide services to an otherwise eligible
 19 small business concern under this section solely because
 20 the small business concern is a cannabis-related legitimate
 21 business or service provider (as defined in section
 22 7(a)(38)).”.

23 (c) SCORE.—Section 8(b)(1)(B) of the Small Busi-
 24 ness Act (15 U.S.C. 637(b)(1)(B)) is amended by adding
 25 at the end the following: “Notwithstanding any provision

1 of the Controlled Substances Act (21 U.S.C. 801 et seq.),
 2 the head of the SCORE program established under this
 3 subparagraph may not decline to provide services to an
 4 otherwise eligible small business concern solely because the
 5 concern is a cannabis-related legitimate business or service
 6 provider (as defined in section 7(a)(38)).”.

7 (d) VETERAN BUSINESS OUTREACH CENTERS.—Sec-
 8 tion 32 of the Small Business Act (15 U.S.C. 657b) is
 9 amended by adding at the end the following:

10 “(h) SERVICES FOR CANNABIS-RELATED LEGITI-
 11 MATE BUSINESSES AND SERVICE PROVIDERS.—Notwith-
 12 standing any provision of the Controlled Substances Act
 13 (21 U.S.C. 801 et seq.), a Veteran Business Outreach
 14 Center may not decline to provide services to an otherwise
 15 eligible small business concern under this section solely be-
 16 cause the small business concern is a cannabis-related le-
 17 gitimate business or service provider (as defined in section
 18 7(a)(38)).”.

19 **SEC. 8. TECHNICAL ASSISTANCE PROVIDERS.**

20 In addition to the programs covered by the amend-
 21 ments made by this Act, and notwithstanding any provi-
 22 sion of the Controlled Substances Act (21 U.S.C. 801 et
 23 seq.), a provider of financial or technical assistance under
 24 a program administered or funded by the Small Business
 25 Administration may not decline to provide such financial

1 or technical assistance to an otherwise eligible small busi-
2 ness concern (as defined in section 3 of the Small Business
3 Act (15 U.S.C. 632)) solely because the concern is a can-
4 nabis-related legitimate business or service provider (as
5 defined in section 7(a)(38) of the Small Business Act (15
6 U.S.C. 636(a)(38)).

7 **SEC. 9. RULEMAKING.**

8 Not later than 120 days after the date of enactment
9 of this Act, the Administrator of the Small Business Ad-
10 ministration shall issue or amend any rules, standard op-
11 erating procedures, and other legal or policy guidance as
12 necessary to carry out the requirements of this Act and
13 the amendments made by this Act.

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