

STATE OF ALASKA THE LEGISLATURE

2021

Source
HJR 14

Legislative
Resolve No.
6



Supporting the passage by the United States Congress of the SAFE Banking Act of 2019, sec. 110606 of the Heroes Act, or similar legislation relating to cannabis-related legitimate businesses' access to financial services.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS, on November 4, 2014, residents of the state voted to legalize cannabis, approving Ballot Measure No. 2, "An Act to tax and regulate the production, sale, and use of marijuana"; and

WHEREAS the state has prioritized the federal cannabis enforcement objectives identified in the August 29, 2013, memorandum from the United States Department of Justice to all United States Attorneys, including preventing the distribution of cannabis to minors, preventing revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels, preventing the diversion of cannabis from states where cannabis is legal in some form under state law to other states, preventing state-authorized cannabis activity from being used as a pretext for the trafficking of illegal drugs or other illegal activity, preventing violence and the use of firearms in the cultivation and distribution of cannabis, preventing drugged driving

and the exacerbation of other adverse public health consequences associated with cannabis use, preventing the growing of cannabis on public land and the attendant public safety and environmental dangers posed by cannabis production on public land, and preventing cannabis possession or use on federal property; and

WHEREAS the state has implemented regulations that respect and support the federal priorities listed in the August 29, 2013, memorandum from the United States Department of Justice; and

WHEREAS, on January 16, 2018, Alaska Attorney General Jahna Lindemuth and the attorneys general of 18 other states, districts, and territories sent a letter urging the United States Congress to advance legislation allowing states that have legalized medical or recreational use of cannabis to bring legal cannabis-related commerce into the banking system; and

WHEREAS, on January 18, 2018, United States Senators Lisa Murkowski and Dan Sullivan joined 14 other senators from around the country in submitting a letter to the Director of the United States Department of the Treasury's Financial Crimes Enforcement Network expressing continuing support for 2014 Financial Crimes Enforcement Network guidance on Bank Secrecy Act expectations regarding cannabis-related businesses; and

WHEREAS, on March 7, 2019, after meeting with industry stakeholders in Alaska, United States Congressman Don Young, Co-Chair of the Congressional Cannabis Caucus, signed on as a cosponsor of H.R. 1595, the Secure and Fair Enforcement Banking Act of 2019, also referred to as the SAFE Banking Act of 2019; and

WHEREAS, on May 8, 2019, Alaska Attorney General Kevin G. Clarkson and the attorneys general of 37 other states, districts, and territories sent a letter urging the United States Congress to advance legislation allowing states that have legalized medical or adult use of cannabis to bring legal cannabis-related commerce into the banking system; and

WHEREAS, on September 25, 2019, United States Congressman Don Young voted with a bipartisan majority in the United States House of Representatives, passing the SAFE Banking Act of 2019 and clearing the Act for consideration in the Senate; and

WHEREAS the SAFE Banking Act of 2019 was inserted into sec. 110606 of H.R. 6800, referred to as the Heroes Act, which, on May 15, 2020, was passed by a bipartisan majority in the United States House of Representatives; and

WHEREAS sec. 1(b) of the SAFE Banking Act of 2019 and sec. 110606(a)(2) of the Heroes Act explain that the purpose of each is "to increase public safety by ensuring access to financial services to cannabis-related legitimate businesses and service providers and reducing the amount of cash at such businesses"; and

WHEREAS the SAFE Banking Act of 2019 and the Heroes Act provide, among other protections, a safe harbor for depository institutions for providing financial services to a cannabis-related legitimate business or service provider; and

WHEREAS the SAFE Banking Act of 2019 and the Heroes Act provide that "[f]or the purposes of sections 1956 and 1957 [money laundering] of title 18, United States Code, and all other provisions of Federal law, the proceeds from a transaction involving activities of a cannabis-related legitimate business or service provider shall not be considered proceeds from an unlawful activity solely because . . . the transaction involves proceeds from a cannabis-related legitimate business or service provider"; and

WHEREAS the SAFE Banking Act of 2019 and the Heroes Act provide that depository institutions or insurers that provide financial services to cannabis-related legitimate businesses or service providers and the officers, directors, and employees of depository institutions or insurers may not be held liable under any federal law or regulation solely for providing the financial service or for further investing any income derived from the financial services; and

WHEREAS the SAFE Banking Act of 2019 and the Heroes Act do not endorse any state's, district's, or territory's specific approach to the legalization of cannabis-related transactions and in no way endorse the legalization of medical or retail cannabis in jurisdictions that choose not to legalize medical or retail cannabis; and

WHEREAS, without federal legislation allowing states that have legalized medical or adult use of cannabis to bring legal cannabis-related commerce into the banking system, the tracking of revenue for taxation and regulatory compliance purposes is more difficult; and

WHEREAS the inability to properly track the billions of dollars in legal cannabis-related sale proceeds compromises the safety and soundness of the nation's financial system by allowing the unmonitored entry of illicit funds into the financial system; and

WHEREAS the threat to public safety increases with cash-intensive businesses because cash-intensive businesses are often the targets of criminal activity; and

WHEREAS the cannabis industry continues to grow rapidly, with analysts estimating the current industry value at \$8,300,000,000, projected to increase to \$25,000,000,000 by 2025; and

WHEREAS, regardless of policy views on states' permitting the medical or adult use of cannabis, the current situation necessitates federal rules that provide for bringing legal cannabis-related commerce into the banking system;

BE IT RESOLVED that the Alaska State Legislature urges the federal government to adopt the SAFE Banking Act of 2019, sec. 110606 of the Heroes Act, or similar legislation that would provide a safe harbor for depository institutions that provide financial products or services to legal cannabis-related businesses or service providers in states that have implemented laws and regulations legalizing cannabis for medical or adult use.

COPIES of this resolution shall be sent to the Honorable Joseph R. Biden, President of the United States; the Honorable Lisa Murkowski and the Honorable Dan Sullivan, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 117th United States Congress.