

Senate Follows House Seeking to Make Cannabis Banking "S.A.F.E."

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BANKING, COMMERCIAL, AND CONSUMER FINANCE | CANNABIS LAW | APRIL 17, 2019



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Sens. Jeff Merkley and Cory Gardner have reintroduced the Secure and Fair Enforcement (SAFE) Banking Act as a companion to House bill HR 1595. The Senate bill (SB 1152), initially introduced in 2017, similarly seeks to protect financial institutions from liability for federal prosecution that could arise from servicing cannabis-related businesses authorized under state law.

Interestingly, Treasury Secretary Steven Mnuchin, appointed by President Trump, supports the legislation for cannabis and banks working with cannabis businesses. He acknowledged federal regulators have no way to deal with the conflict created by state legalization of cannabis, which is in direct opposition to current federal law.

Speaking in support of the cannabis legislation in the present situation, Attorney General William Barr testified that unless there is a clear federal law prohibiting cannabis, he prefers the state approach and added he will not enforce the federal position on cannabis in those states in which it is legal.

The Senate bill, in its present state, goes slightly further than the House bill. The Senate version specifically blocks federal agencies from prohibiting, penalizing, or discouraging a depository from providing financial services to a "cannabis-related legitimate business or service provider or to a State, political subdivision of a State, or Indian Tribe that exercises jurisdiction over cannabis-related legitimate businesses." It also includes the insurance industry in its bill, which will allow insurance companies to provide coverage to a cannabis business.

While the Senate bill is not yet scheduled for a committee hearing, it will likely occur soon, given that the House version will come to the floor for a vote in a few weeks.

Carlton Fields' Cannabis Task Force continues to monitor the cannabis legal landscape nationwide, and state specific, and will provide periodic updates. For more information, please contact the authors of this client alert.