

Assembly Joint Resolution

No. 25

**Introduced by Assembly Member Lackey
(Principal coauthors: Assembly Members Bonta, Cooley,
Jones-Sawyer, Wilk, and Wood)**

June 25, 2015

Assembly Joint Resolution No. 25—Relative to cannabis businesses.

LEGISLATIVE COUNSEL'S DIGEST

AJR 25, as introduced, Lackey. Access to financial institutions.

This measure would memorialize the President and Congress of the United States to support legislation that will provide a comprehensive solution to allow banks and credit unions to perform financial services for marijuana businesses.

Fiscal committee: no.

1 WHEREAS, Cannabis use for medical purposes is legal in 23
2 states and is legal for recreational purposes in four states and in
3 the District of Columbia. The expansion of cannabis businesses
4 across the United States requires action from Congress and the
5 federal government; and
6 WHEREAS, While many states have laws permitting various
7 degrees of commercial activity using cannabis, it remains illegal
8 under federal law. The conflict between federal and state laws has
9 left financial institutions serving cannabis-related businesses on
10 uncertain legal ground. Banks and credit unions are concerned that
11 providing financial services for businesses selling a product that
12 is illegal under federal law exposes them to possible charges of
13 money laundering and drug trafficking; and

1 WHEREAS, Federal laws, including the Controlled Substances
2 Act, the Bank Secrecy Act, and the Annunzio-Wylie Anti-Money
3 Laundering Act, prohibit financial institutions from providing
4 financial services to cannabis and hemp businesses. Directives
5 from federal regulatory agencies such as the Federal Reserve, the
6 Federal Deposit Insurance Corporation, the National Credit Union
7 Administration, and the Office of the Comptroller of the Currency
8 also prohibit bankers from accepting deposits from cannabis or
9 hemp businesses; and

10 WHEREAS, In February 2014, the United States Treasury's
11 Financial Crimes Enforcement Network, or FinCEN, in
12 coordination with the United States Department of Justice, also
13 issued a memo outlining expectations for compliance with the
14 Bank Secrecy Act. Despite this progress, remaining uncertainties
15 under current federal law still prevent banks and credit unions
16 from accepting cannabis-based businesses as customers; and

17 WHEREAS, The medical, retail, and hemp agricultural
18 businesses are unable to accept credit or debit cards from customers
19 because electronic payments are handled through the banking
20 system. Therefore, transactions must be conducted in cash. Further,
21 these businesses cannot deposit cash from sales into financial
22 institutions. This is a major problem in California as many
23 businesses now have hundreds of thousands of dollars in cash at
24 their locations, which poses a public safety risk to businesses,
25 employees, and customers; and

26 WHEREAS, The lack of financial services makes paying taxes
27 to local governments and the California State Board of Equalization
28 a challenge because tax payments must be made in cash by
29 cannabis-related businesses, leading to hundreds of thousands of
30 dollars in cash being brought directly into government offices. It
31 is difficult for the State Board of Equalization to audit cash-based
32 businesses, especially when records of wholesale transactions are
33 not available; and

34 WHEREAS, Cannabis businesses cannot easily comply with
35 California tax laws, which has led to a significant underpayment
36 of revenue owed the state. In response, the State Board of
37 Equalization launched the Cannabis Compliance Pilot Project in
38 January 2015 to help determine both the degree of noncompliance
39 with state tax law and the amount of lost tax revenue. However,
40 state efforts alone cannot solve the problem; now, therefore, be it

1 *Resolved by the Assembly and the Senate of the State of*
2 *California, jointly,* That the Legislature respectfully urges the
3 President and Congress to support legislation which will provide
4 a comprehensive solution to allow banks and credit unions to
5 perform financial services for cannabis businesses without federal
6 retribution. The current system that requires cash-based transactions
7 poses a risk to public safety and leads to reduced collection of
8 taxes; and be it further

9 *Resolved,* That the Chief Clerk of the Assembly transmit copies
10 of this resolution to the President and the Vice President of the
11 United States, to the Speaker of the House of Representatives, to
12 the Minority Leader of the House of Representatives, to the
13 Majority Leader of the Senate, to the Minority Leader of the
14 Senate, and to each Senator and Representative from California
15 in the Congress of the United States.

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