

## Assembly Joint Resolution No. 25

### RESOLUTION CHAPTER 202

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

[Filed with Secretary of State September 25, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

AJR 25, 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.

WHEREAS, Cannabis use for medical purposes is legal in 23 states and is legal for recreational purposes in four states and in the District of Columbia. The expansion of cannabis businesses across the United States requires action from Congress and the federal government; and

WHEREAS, While many states have laws permitting various degrees of commercial activity using cannabis, it remains illegal under federal law. The conflict between federal and state laws has left financial institutions serving cannabis-related businesses on uncertain legal ground. Banks and credit unions are concerned that providing financial services for businesses selling a product that is illegal under federal law exposes them to possible charges of money laundering and drug trafficking; and

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

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

WHEREAS, The medical, retail, and hemp agricultural businesses are unable to accept credit or debit cards from customers because electronic payments are handled through the banking system. Therefore, transactions must be conducted in cash. Further, these businesses cannot deposit cash from sales into financial institutions. This is a major problem in California

as many businesses now have hundreds of thousands of dollars in cash at their locations, which poses a public safety risk to businesses, employees, and customers; and

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

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

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

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