

116TH CONGRESS  
1ST SESSION

# H. R. 4074

To create a safe harbor for insurers engaging in the business of insurance in connection with a cannabis-related business, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Ms. VELÁZQUEZ (for herself and Mr. STIVERS) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To create a safe harbor for insurers engaging in the business of insurance in connection with a cannabis-related business, 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 “Clarifying Law Around  
5 Insurance of Marijuana Act” or the “CLAIM Act”.

6 **SEC. 2. SAFE HARBOR FOR INSURERS AND THE BUSINESS**  
7 **OF INSURANCE.**

8 (a) DEFINITIONS.—In this Act:

1           (1) CANNABIS.—The term “cannabis” has the  
2 meaning given the term “marihuana” in section 102  
3 of the Controlled Substances Act (21 U.S.C. 802).

4           (2) CANNABIS PRODUCT.—The term “cannabis  
5 product” means any article that contains cannabis,  
6 including an article that is a concentrate, an edible,  
7 a tincture, a cannabis-infused product, a topical, or  
8 a flower.

9           (3) CANNABIS-RELATED BUSINESS.—The term  
10 “cannabis-related business” means a manufacturer,  
11 producer, or any person or company that—

12                   (A) engages in any activity described in  
13 subparagraph (B) pursuant to a law established  
14 by a State or a political subdivision of a State;

15                   (B)(i) participates in any business or orga-  
16 nized activity that involves handling cannabis or  
17 cannabis products, including cultivating, pro-  
18 ducing, manufacturing, selling, transporting,  
19 displaying, dispensing, distributing, or pur-  
20 chasing cannabis or cannabis products or dis-  
21 tributing or deriving any proceeds, directly or  
22 indirectly, from cannabis or cannabis products;  
23 or

24                   (ii) provides—

1 (I) any financial service, including re-  
2 tirement plans or exchange traded funds,  
3 relating to cannabis; or

4 (II) any business services, including  
5 the sale or lease of real or any other prop-  
6 erty, legal or other licensed services, or any  
7 other ancillary service, relating to can-  
8 nabis.

9 (4) FEDERAL AGENCY.—The term “Federal  
10 agency”—

11 (A) has the meaning given the term “Exec-  
12 utive agency” in section 105 of title 5, United  
13 States Code; and

14 (B) includes a private attorney described  
15 in section 3002(1)(B) of title 28, United States  
16 Code.

17 (5) FINANCIAL SERVICE.—The term “financial  
18 service”—

19 (A) means a financial product or service,  
20 as defined in section 1002 of the Dodd-Frank  
21 Wall Street Reform and Consumer Protection  
22 Act (12 U.S.C. 5481); and

23 (B) includes the business of insurance.

1           (6) INDIAN COUNTRY.—The term “Indian coun-  
2           try” has the meaning given the term in section 1151  
3           of title 18, United States Code.

4           (7) INDIAN TRIBE.—The term “Indian tribe”  
5           has the meaning given the term in section 102 of the  
6           Federally Recognized Indian Tribe List Act of 1994  
7           (25 U.S.C. 479a).

8           (8) INSURER.—The term “insurer” has the  
9           meaning given the term in section 313(r) of title 31,  
10          United States Code.

11          (9) MANUFACTURER.—The term “manufac-  
12          turer” means a person or company who manufac-  
13          tures, compounds, converts, processes, prepares, or  
14          packages cannabis or cannabis products.

15          (10) PRODUCER.—The term “producer” means  
16          a person who plants, cultivates, harvests, or in any  
17          way facilitates the natural growth of cannabis.

18          (11) STATE.—The term “State” means each of  
19          the several States, the District of Columbia, Puerto  
20          Rico, and any territory or possession of the United  
21          States.

22          (b) INSURERS.—A Federal agency may not—

23                 (1) prohibit, penalize, or otherwise discourage  
24                 an insurer from engaging in the business of insur-  
25                 ance in connection with—

1 (A) a cannabis-related business; or

2 (B) a State, political subdivision of a  
3 State, or Indian tribe that exercises jurisdiction  
4 over cannabis-related businesses;

5 (2) terminate, cancel or otherwise limit the poli-  
6 cies of an insurer solely because the insurer has en-  
7 gaged in the business of insurance in connection  
8 with a cannabis-related business;

9 (3) recommend, incentivize, or encourage an in-  
10 surer not to engage in the business of insurance in  
11 connection with a policyholder, or downgrade or can-  
12 cel the insurance and insurance services offered to a  
13 policyholder solely because—

14 (A) the policyholder is—

15 (i) a manufacturer or producer, or

16 (ii) the owner, operator, or employee  
17 of a cannabis-related business;

18 (B) the policyholder later becomes an em-  
19 ployee, owner, or operator of a cannabis-related  
20 business; or

21 (C) the insurer was not aware that the pol-  
22 icyholder is an employee, owner, or operator of  
23 a cannabis-related business; or

24 (4) take any adverse or corrective supervisory  
25 action on a policy to—

1 (A) a cannabis-related business, solely be-  
2 cause the owner or operator owns or operates a  
3 cannabis-related business;

4 (B) an employee, owner, or operator of a  
5 cannabis-related legitimate business or service  
6 provider, solely because the employee, owner, or  
7 operator is employed by, owns, or operates a  
8 cannabis-related business, as applicable;

9 (C) an owner or operator of real estate or  
10 equipment that is leased to a cannabis-related  
11 business, solely because the owner or operator  
12 of the real estate or equipment leased the  
13 equipment or real estate to a cannabis-related  
14 business, as applicable.

15 (c) PROTECTIONS UNDER FEDERAL LAW.—With re-  
16 spect to engaging in the business of insurance within a  
17 State, political subdivision of a State, or Indian country  
18 that allows the cultivation, production, manufacture, sale,  
19 transportation, display, dispensing, distribution, or pur-  
20 chase of cannabis pursuant to a law (including regula-  
21 tions) of such State, political subdivision, or Indian Tribe  
22 that has jurisdiction over the Indian country, as applica-  
23 ble, an insurer that engages in the business of insurance  
24 with a cannabis-related business or service provider or who  
25 otherwise engages with a person in a transaction permis-

1 sible under State law related to cannabis, and the officers,  
2 directors, and employees of that insurer may not be held  
3 liable pursuant to any Federal law (including regula-  
4 tions)—

5 (1) solely for engaging in the business of insur-  
6 ance;

7 (2) for further investing any income derived  
8 from such business of insurance.

9 (d) **RULE OF CONSTRUCTION.**—Nothing in this Act  
10 shall—

11 (1) require an insurer to engage in the business  
12 of insurance in connection with a cannabis-related  
13 business; or

14 (2) interfere with the regulation of the business  
15 of insurance in accordance with the Act of March 9,  
16 1945 (59 Stat. 33, chapter 20; 15 U.S.C. 1011 et  
17 seq.) (commonly known as the “McCarran-Ferguson  
18 Act”) and the Dodd-Frank Wall Street Reform and  
19 Consumer Protection Act (12 U.S.C. 5301 et seq.).

20 **SEC. 3. GAO STUDY ON DIVERSITY AND INCLUSION.**

21 (a) **STUDY.**—The Comptroller General of the United  
22 States shall carry out a study on the barriers to market-  
23 place entry, including in the licensing process, and the ac-  
24 cess to financial services for potential and existing minor-

1 ity-owned and women-owned cannabis-related legitimate  
2 businesses.

3 (b) REPORT.—The Comptroller General shall issue a  
4 report to the Congress—

5 (1) containing all findings and determinations  
6 made in carrying out the study required under sub-  
7 section (a); and

8 (2) containing any regulatory or legislative rec-  
9 ommendations for removing barriers to marketplace  
10 entry, including in the licensing process, and ex-  
11 panding access to financial services for potential and  
12 existing minority-owned and women-owned cannabis-  
13 related legitimate businesses.

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