



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5477

by Rep. Lamont J. Robinson, Jr.

SYNOPSIS AS INTRODUCED:

205 ILCS 657/90

Amends the Transmitters of Money Act. Provides that the Director of Financial Institutions of the Department of Financial and Professional Regulation shall not issue an order against a money transmitter for practices contrary to the Act solely because the entity provides or has provided financial services to a cannabis-related legitimate business. Provides that the Director shall not prohibit, penalize, or otherwise discourage a money transmitter from providing financial services to a cannabis-related legitimate business solely because the entity provides or has provided financial services to a cannabis-related legitimate business. Provides that the Director shall not recommend, incentivize, or encourage a money transmitter not to offer financial services or to downgrade or cancel the financial services offered to an account holder solely because of specified reasons related to owning or operating a cannabis-related legitimate business.

LRB101 19226 BMS 68690 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Transmitters of Money Act is amended by
5 changing Section 90 as follows:

6 (205 ILCS 657/90)

7 Sec. 90. Enforcement.

8 (a) If it appears to the Director that a person has
9 committed or is about to commit a violation of this Act, a rule
10 promulgated under this Act, or an order of the Director, the
11 Director may apply to the circuit court for an order enjoining
12 the person from violating or continuing to violate this Act,
13 the rule, or order and for injunctive or other relief that the
14 nature of the case may require and may, in addition, request
15 the court to assess a civil penalty up to \$1,000 along with
16 costs and attorney fees.

17 (b) If the Director finds, after an investigation that he
18 considers appropriate, that a licensee or other person is
19 engaged in practices contrary to this Act or to the rules
20 promulgated under this Act, the Director may issue an order
21 directing the licensee or person to cease and desist the
22 violation. The Director may, in addition to or without the
23 issuance of a cease and desist order, assess an administrative

1 penalty up to \$1,000 against a licensee for each violation of
2 this Act or the rules promulgated under this Act. The issuance
3 of an order under this Section shall not be a prerequisite to
4 the taking of any action by the Director under this or any
5 other Section of this Act. The Director shall serve notice of
6 his action, including a statement of the reasons for his
7 actions, either personally or by certified mail, return receipt
8 requested. Service by mail shall be deemed completed if the
9 notice is deposited in the post office, postage paid, addressed
10 to the last known address for a license.

11 (c) In the case of the issuance of a cease and desist order
12 or assessment order, a hearing may be requested in writing
13 within 30 days after the date of service. The hearing shall be
14 held at the time and place designated by the Director in either
15 the City of Springfield or the City of Chicago. The Director
16 and any administrative law judge designated by him shall have
17 the power to administer oaths and affirmations, subpoena
18 witnesses and compel their attendance, take evidence,
19 authorize the taking of depositions, and require the production
20 of books, papers, correspondence, and other records or
21 information that he considers relevant or material to the
22 inquiry.

23 (d) After the Director's final determination under a
24 hearing under this Section, a party to the proceedings whose
25 interests are affected by the Director's final determination
26 shall be entitled to judicial review of that final

1 determination under the Administrative Review Law.

2 (e) The costs for administrative hearings shall be set by
3 rule.

4 (f) Except as otherwise provided in this Act, a violation
5 of this Act shall subject the party violating it to a fine of
6 \$1,000 for each offense.

7 (g) Each transaction in violation of this Act or the rules
8 promulgated under this Act and each day that a violation
9 continues shall be a separate offense.

10 (h) A person who engages in conduct requiring a license
11 under this Act and fails to obtain a license from the Director
12 or knowingly makes a false statement, misrepresentation, or
13 false certification in an application, financial statement,
14 account record, report, or other document filed or required to
15 be maintained or filed under this Act or who knowingly makes a
16 false entry or omits a material entry in a document is guilty
17 of a Class 3 felony.

18 (i) The Director is authorized to compromise, settle, and
19 collect civil penalties and administrative penalties, as set by
20 rule, with any person for violations of this Act or of any rule
21 or order issued or promulgated under this Act. Any person who,
22 without the required license, engages in conduct requiring a
23 license under this Act shall be liable to the Department in an
24 amount equal to the greater of (i) \$5,000 or (ii) an amount of
25 money accepted for transmission plus an amount equal to 3 times
26 the amount accepted for transmission. The Department shall

1 cause any funds so recovered to be deposited in the TOMA
2 Consumer Protection Fund.

3 (j) The Director may enter into consent orders at any time
4 with a person to resolve a matter arising under this Act. A
5 consent order must be signed by the person to whom it is issued
6 and must indicate agreement to the terms contained in it. A
7 consent order need not constitute an admission by a person that
8 this Act or a rule or order issued or promulgated under this
9 Act has been violated, nor need it constitute a finding by the
10 Director that the person has violated this Act or a rule or
11 order promulgated under this Act.

12 (k) Notwithstanding the issuance of a consent order, the
13 Director may seek civil or criminal penalties or compromise
14 civil penalties concerning matter encompassed by the consent
15 order unless the consent order by its terms expressly precludes
16 the Director from doing so.

17 (l) Appeals from all final orders and judgments entered by
18 the circuit court under this Section in review of a decision of
19 the Director may be taken as in other civil actions by any
20 party to the proceeding.

21 (m) Notwithstanding the provisions of this Section, the
22 Director shall not:

23 (1) issue an order against a money transmitter
24 organized under this Act for practices contrary to this Act
25 solely because the entity provides or has provided
26 financial services to a cannabis-related legitimate

1 business;

2 (2) prohibit, penalize, or otherwise discourage a
3 money transmitter from providing financial services to a
4 cannabis-related legitimate business solely because the
5 entity provides or has provided financial services to a
6 cannabis-related legitimate business; and

7 (3) recommend, incentivize, or encourage a money
8 transmitter not to offer financial services to an account
9 holder or to downgrade or cancel the financial services
10 offered to an account holder solely because:

11 (A) the account holder is a manufacturer or
12 producer, or is the owner, operator, or employee of a
13 cannabis-related legitimate business;

14 (B) the account holder later becomes an owner or
15 operator of a cannabis-related legitimate business; or

16 (C) the money transmitter was not aware that the
17 account holder is the owner or operator of a
18 cannabis-related legitimate business.

19 (Source: P.A. 100-201, eff. 8-18-17.)