

1                                   A bill to be entitled  
2           An act relating to taxes and fees related to marijuana  
3           sales and use; creating s. 566.012, F.S.; imposing an  
4           excise tax on recreational marijuana; requiring the  
5           Department of Business and Professional Regulation to  
6           annually calculate and publish an adjusted excise tax  
7           rate; requiring certain entities to file a monthly  
8           return that includes tax payments and to keep  
9           specified records; authorizing the Division of  
10          Alcoholic Beverages, Marijuana, and Tobacco to revoke  
11          a marijuana cultivation facility's license under  
12          certain circumstances; creating s. 566.0125, F.S.;  
13          authorizing counties and municipalities to establish  
14          additional excise taxes on the sale and purchase of  
15          marijuana; limiting the excise tax rate; amending s.  
16          566.036, F.S.; requiring applicants for a marijuana  
17          establishment license to pay a specified application  
18          fee; creating Part I of ch. 566, F.S., entitled  
19          "Excise Tax"; providing definitions relating to an  
20          excise tax on recreational marijuana; imposing an  
21          excise tax on recreational marijuana; providing for  
22          inflation adjustments to the tax rate; providing for  
23          collection of the tax; providing for distribution of  
24          tax revenues; requiring an annual report concerning  
25          tax revenues; prohibiting falsifying records or other

26 | violations; providing criminal penalties; amending s.  
 27 | 566.036, F.S.; authorizing an application fee for  
 28 | marijuana establishments; amending s. 566.037, F.S.;  
 29 | conforming provisions to changes made by the act;  
 30 | providing for rulemaking concerning application fees;  
 31 | amending s. 943.0586, F.S., as created by HB 343;  
 32 | requiring applicants for a certificate of eligibility  
 33 | of expunction for certain criminal history records to  
 34 | pay a specified fee to the Department of Law  
 35 | Enforcement for placement in a specified trust fund;  
 36 | providing an exception; providing contingent effective  
 37 | dates.

38 |  
 39 | Be It Enacted by the Legislature of the State of Florida:

40 |  
 41 | Section 1. Section 566.012, Florida Statutes, is created  
 42 | to read:

43 | 566.012 Excise tax on marijuana.-

44 | (1) An excise tax is imposed on the sale or transfer of  
 45 | marijuana from a marijuana cultivation facility to a retail  
 46 | marijuana store or marijuana product manufacturing facility.  
 47 | Each marijuana cultivation facility shall pay an excise tax at  
 48 | the rate of \$50 per ounce, or proportionate part thereof, on  
 49 | marijuana that is sold or transferred from a marijuana  
 50 | cultivation facility pursuant to part II.

51        (2) The excise tax rate under subsection (1) shall be  
52 adjusted annually for inflation.

53        (a) Beginning in 2022, on or about February 15 of each  
54 year, the department shall calculate the adjusted excise tax  
55 rate by multiplying the rate in effect on the calculation date  
56 by an inflation index computed as provided in paragraph (b). The  
57 adjusted rate must be rounded to the nearest penny and become  
58 effective on the first day of July immediately after the  
59 calculation. The division shall publish the annually adjusted  
60 excise tax rate and shall provide all necessary forms and  
61 reports.

62        (b) The inflation index is the Consumer Price Index for  
63 All Urban Consumers, U.S. City Average, or successor reports, as  
64 reported by the United States Department of Labor, Bureau of  
65 Labor Statistics, for the calendar year ending December 31  
66 immediately before the calculation date, divided by the Consumer  
67 Price Index for the previous calendar year. The inflation index  
68 may not be less than 1.

69        (3) (a) A marijuana cultivation facility subject to the  
70 licensing requirement of s. 566.036 shall file, on or before the  
71 last day of each month, a return on a form prescribed and  
72 furnished by the division, together with payment of the tax due  
73 under this section. The return must report all marijuana  
74 products held, purchased, manufactured, brought in, or caused to  
75 be brought in from outside the state or shipped or transported

76 | to a retail marijuana store or marijuana product manufacturing  
77 | facility within the state during the previous calendar month. A  
78 | marijuana cultivation facility shall keep a complete and  
79 | accurate record at its principal place of business to  
80 | substantiate all receipts and sales of marijuana products.

81 | (b) The return must include further information as the  
82 | division may prescribe. Tax previously paid on marijuana  
83 | products that are returned to a marijuana establishment because  
84 | the product has become unfit for use, sale, or consumption and  
85 | for marijuana products that are returned to a marijuana  
86 | cultivation facility that are subsequently destroyed by the  
87 | marijuana cultivation facility may be taken as a credit on a  
88 | subsequent return. The division may either witness the  
89 | destruction of the product or may accept another form of proof  
90 | that the product has been destroyed by the marijuana cultivation  
91 | facility.

92 | (c) A person who is not a marijuana cultivation facility  
93 | licensed under s. 566.036 who imports, receives, or otherwise  
94 | acquires marijuana products for use or consumption in the state  
95 | from a person other than a licensed marijuana cultivation  
96 | facility shall file, on or before the last day of the month  
97 | after each month in which marijuana products were acquired, a  
98 | return on a form prescribed by the division together with  
99 | payment of the tax imposed by this section at the rate provided  
100 | in subsection (1). The return must report the quantity of

101 marijuana products imported, received, or otherwise acquired  
102 from a person other than a licensed marijuana cultivation  
103 facility during the previous calendar month and additional  
104 information that the division may require.

105 (4) If a marijuana cultivation facility fails to make tax  
106 payments as required by this section, the division may revoke  
107 the marijuana cultivation facility's license.

108 Section 2. Section 566.0125, Florida Statutes, is created  
109 to read:

110 566.0125 County or municipality excise taxes.—A county or  
111 municipality may establish additional excise taxes for the sale  
112 or purchase of marijuana, but the tax rate may not exceed 15  
113 percent.

114 Section 3. Subsection (12) is added to section 566.036,  
115 Florida Statutes, as created by HB 1361, 2021 Regular Session,  
116 to read:

117 566.036 Licensing of marijuana establishments.—

118 (12) An applicant for a marijuana establishment license  
119 shall pay an application fee not to exceed \$5,000, as set by  
120 rule.

121 Section 4. This section shall take effect on the same date  
122 that HB 291 or similar legislation takes effect, if such  
123 legislation is adopted in the same legislative session or an  
124 extension thereof and becomes a law, part I of chapter 566,  
125 Florida Statutes, as created by HB 291, is renumbered as Part

126 II, and a new Part I of that chapter, consisting of sections  
 127 566.011 through 566.015, is created to read:

128 CHAPTER 566

129 RECREATIONAL MARIJUANA

130 PART I

131 EXCISE TAX

132  
 133 566.011 Definitions.—As used in this part, the term:

134 (1) "Department" means the Department of Business and  
 135 Professional Regulation.

136 (2) "Division" means the Division of Alcoholic Beverages,  
 137 Marijuana, and Tobacco of the department.

138 (3) "Marijuana" means all parts of the plant of the genus  
 139 cannabis, whether growing or not, the seeds thereof, the resin  
 140 extracted from any part of the plant, and every compound,  
 141 manufacture, salt, derivative, mixture, or preparation of the  
 142 plant, its seeds, or its resin, including marijuana concentrate.  
 143 The term does not include industrial hemp, fiber produced from  
 144 the stalks, oil, cake made from the seeds of the plant,  
 145 sterilized seed of the plant that is incapable of germination,  
 146 or the weight of any ingredient combined with marijuana to  
 147 prepare topical or oral administrations, food, drink, or any  
 148 other product.

149 (4) "Marijuana cultivation facility" means an entity  
 150 licensed to cultivate, prepare, and package and sell marijuana

151 to retail marijuana stores, to marijuana product manufacturing  
152 facilities, and to other marijuana cultivation facilities, but  
153 not to consumers.

154 (5) "Marijuana establishment" means a marijuana  
155 cultivation facility, marijuana testing facility, marijuana  
156 product manufacturing facility, or retail marijuana store.

157 (6) "Marijuana product manufacturing facility" means an  
158 entity licensed to:

159 (a) Purchase marijuana;

160 (b) Manufacture, prepare, and package marijuana products;  
161 or

162 (c) Sell marijuana and marijuana products to other  
163 marijuana product manufacturing facilities and to retail  
164 marijuana stores, but not to consumers.

165 (7) "Marijuana products" means concentrated marijuana and  
166 products that consist of marijuana and other ingredients and are  
167 intended for use or consumption, including, but not limited to,  
168 edible products, ointments, and tinctures.

169 (8) "Marijuana testing facility" means an entity licensed  
170 to analyze and certify the safety and potency of marijuana.

171 (9) "Retail marijuana store" means an entity licensed to  
172 purchase marijuana from a marijuana cultivation facility and  
173 marijuana products from a marijuana product manufacturing  
174 facility and to sell marijuana and marijuana products to  
175 consumers.

176 566.012 Excise tax on marijuana.—

177 (1) An excise tax is imposed on the sale or transfer of  
 178 marijuana from a marijuana cultivation facility to a retail  
 179 marijuana store or marijuana product manufacturing facility.  
 180 Each marijuana cultivation facility shall pay an excise tax at  
 181 the rate of \$50 per ounce, or proportionate part thereof, on  
 182 marijuana that is sold or transferred from a marijuana  
 183 cultivation facility pursuant to part II.

184 (2) The excise tax rate under subsection (1) shall be  
 185 adjusted annually for inflation.

186 (a) Beginning in 2023, on or about February 15 of each  
 187 year, the department shall calculate the adjusted excise tax  
 188 rates by multiplying the rates in effect on the calculation date  
 189 by an inflation index computed as provided in paragraph (b). The  
 190 adjusted rates must be rounded to the nearest penny and become  
 191 effective on the first day of July immediately after the  
 192 calculation. The division shall publish the annually adjusted  
 193 excise tax rates and shall provide all necessary forms and  
 194 reports.

195 (b) The inflation index is the Consumer Price Index for  
 196 All Urban Consumers, U.S. City Average, or successor reports, as  
 197 reported by the United States Department of Labor, Bureau of  
 198 Labor Statistics, for the calendar year ending on December 31  
 199 immediately before the calculation date, divided by the Consumer  
 200 Price Index for the previous calendar year. The inflation index



201 may not be less than one.

202 (c)1. A marijuana cultivation facility subject to the  
203 licensing requirement of s. 566.036 shall file, on or before the  
204 last day of each month, a return on a form prescribed and  
205 furnished by the division together with payment of the tax due  
206 under this part. The return must report all marijuana products  
207 held, purchased, manufactured, brought in, or caused to be  
208 brought in from outside the state or shipped or transported to a  
209 retail marijuana store or marijuana product manufacturing  
210 facility within the state during the previous calendar month. A  
211 marijuana cultivation facility shall keep a complete and  
212 accurate record at its principal place of business to  
213 substantiate all receipts and sales of marijuana products.

214 2. The return must include further information as the  
215 division may prescribe. Tax previously paid on marijuana  
216 products that are returned to a marijuana establishment because  
217 the product has become unfit for use, sale, or consumption and  
218 for marijuana products that are returned to a marijuana  
219 cultivation facility that are subsequently destroyed by the  
220 marijuana cultivation facility may be taken as a credit on a  
221 subsequent return. The division may either witness the  
222 destruction of the product or may accept another form of proof  
223 that the product has been destroyed by the marijuana cultivation  
224 facility.

225 3. A person who is not a marijuana cultivation facility

226 licensed pursuant to s. 566.036 who imports, receives, or  
227 otherwise acquires marijuana products for use or consumption in  
228 the state from a person other than a licensed marijuana  
229 cultivation facility shall file, on or before the last day of  
230 the month after each month in which marijuana products were  
231 acquired, a return on a form prescribed by the division together  
232 with payment of the tax imposed by this part at the rate  
233 provided in subsection (1). The return must report the quantity  
234 of marijuana products imported, received, or otherwise acquired  
235 from a person other than a licensed marijuana cultivation  
236 facility during the previous calendar month and additional  
237 information that the division may require.

238 (d) If a marijuana cultivation facility fails to make tax  
239 payments as required by this section, the division may revoke  
240 the marijuana cultivation facility's license.

241 566.013 Distribution of revenues.—Revenues derived from  
242 the tax imposed by this part must be credited to the Child Care  
243 Trust Fund. On or before the last day of each month, the Chief  
244 Financial Officer shall transfer 15 percent of the revenue  
245 received by the division during the preceding month pursuant to  
246 the tax imposed by s. 566.012 to the Alcoholic Beverage,  
247 Marijuana, and Tobacco Trust Fund established under s. 561.025.  
248 On or before the last day of each month, the Chief Financial  
249 Officer shall transfer the remainder of the revenues to the  
250 Child Care Trust Fund.

251 566.014 Annual report.—The division shall report annually  
 252 beginning January 30, 2023, the amount of tax revenue collected  
 253 pursuant to s. 566.012 and the amount distributed pursuant to s.  
 254 561.025(3) to the appropriations committees of each house of the  
 255 Legislature.

256 566.015 Violations.—Any person willfully and knowingly  
 257 making any false entries in any records required under this part  
 258 or willfully violating any of the provisions of the this part,  
 259 concerning the excise tax herein provided for commits a felony  
 260 of the third degree, punishable as provided in s. 775.082, s.  
 261 775.083, or s. 775.084.

262 Section 5. This section shall take effect on the same date  
 263 that HB 291 or similar legislation takes effect, if such  
 264 legislation is adopted in the same legislative session or an  
 265 extension thereof and becomes a law, subsection (1) of section  
 266 566.036, Florida Statutes, as created by HB 291, is amended, to  
 267 read:

268 566.036 Licensing of marijuana establishments.—

269 (1) An applicant for a marijuana establishment license  
 270 shall file an application in the form required by the division  
 271 for the type of marijuana establishment license sought, along  
 272 with the application fee, not to exceed \$5,000, as set by rule.  
 273 An applicant may apply for and be granted more than one type of  
 274 marijuana establishment license, except that a person licensed  
 275 as a marijuana testing facility may not hold another marijuana

276 establishment license. The division shall begin accepting and  
277 processing applications by August 1, 2022.

278 Section 6. This section shall take effect on the same date  
279 that HB 291 or similar legislation takes effect, if such  
280 legislation is adopted in the same legislative session or an  
281 extension thereof and becomes a law, paragraph (d) of subsection  
282 (2) of section 566.037, Florida Statutes, as created by HB 291,  
283 is amended to read:

284 566.037 Local control.—

285 (2) If a locality does not prohibit the operation of a  
286 marijuana establishment pursuant to subsection (1), the  
287 following apply:

288  
289 (d) If the division does not issue a license to an  
290 applicant within 90 days after receipt of the application filed  
291 in accordance with s. 566.036 and does not notify the applicant  
292 of the specific reason for denial, in writing and within 90 days  
293 after receipt of the application, the applicant may resubmit its  
294 application directly to the locality and the locality may issue  
295 an annual license to the applicant. A locality issuing a license  
296 to an applicant shall do so within 90 days after receipt of the  
297 resubmitted application unless the locality finds, and notifies  
298 the applicant, that the applicant is not in compliance with an  
299 ordinance, rule, or regulation made pursuant to s. 566.035 or  
300 paragraph (b) in effect at the time the application is

301 resubmitted. The locality shall notify the division if the  
302 locality issues an annual license to the applicant. If an  
303 application is submitted to a locality under this paragraph, the  
304 division shall forward to the locality the application fee paid  
305 by the applicant to the division upon request by the locality.

306 Section 7. This section shall take effect on the same date  
307 that HB 291 or similar legislation takes effect, if such  
308 legislation is adopted in the same legislative session or an  
309 extension thereof and becomes a law, paragraph (b) of subsection  
310 (2) of section 6 of HB 291, is amended to read:

311 Rulemaking.—This section shall take effect upon this act  
312 becoming a law.

313 (2) Rules adopted pursuant to this section must include:

314 (b) The form and content of applications for each type of  
315 marijuana establishment license, ~~and~~ registration renewal forms,  
316 and renewal fee schedules, except that an application,  
317 licensing, or renewal fee may not exceed \$5,000.

318 Section 8. This section shall take effect on the same date  
319 that HB 343 or similar legislation takes effect, if such  
320 legislation is adopted in the same legislative session or an  
321 extension thereof and becomes a law, paragraph (a) of subsection  
322 (3) of section 943.0586, Florida Statutes, as created by HB 343  
323 or other similar legislation enacted in the 2021 Regular Session  
324 or an extension thereof and which becomes a law, is amended to  
325 read:

326 | 943.0586 Cannabis expunction.—

327 | (3) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
 328 | to expunge a criminal history record under this section, a  
 329 | person seeking to expunge a criminal history record must apply  
 330 | to the department for a certificate of eligibility for  
 331 | expunction. The department shall adopt rules to establish  
 332 | procedures for applying for and issuing a certificate of  
 333 | eligibility for expunction.

334 | (a) The department shall issue a certificate of  
 335 | eligibility for expunction to a person who is the subject of a  
 336 | criminal history record under this section, if that person:

337 | 1. Satisfies the eligibility criteria in subsection (2);

338 | 2. Has submitted to the department a written certified  
 339 | statement from the appropriate state attorney or statewide  
 340 | prosecutor which confirms the criminal history record complies  
 341 | with the criteria in subsection (2); ~~and~~

342 | 3. Has submitted to the department a certified copy of the  
 343 | disposition of the charge to which the petition to expunge  
 344 | pertains; and

345 | 4. Remits a \$75 processing fee to the department for  
 346 | placement in the Department of Law Enforcement Operating Trust  
 347 | Fund, unless the executive director waives the fee.

348 | Section 9. Except as otherwise provided herein, this act  
 349 | shall take effect on the same date that HB 1361 or similar  
 350 | legislation takes effect, if such legislation is adopted in the

HB 1363

2021

351 | same legislative session or an extension thereof and becomes a  
352 | law.