

1 A bill to be entitled
2 An act relating to taxes and fees; creating s.
3 566.801, F.S.; specifying fees under ch. 566, F.S.,
4 for various applications, renewals, and other
5 purposes; creating s. 566.802, F.S.; providing
6 contributions for early approval adult use dispensing
7 organization licenses; creating s. 566.803, F.S.;
8 providing that the Department of Business and
9 Professional Regulation may revise fees after a
10 specified date; creating s. 566.804, F.S.; providing
11 for certain mandatory contributions for obtaining
12 early approval adult use dispensing organization
13 licenses; creating s. 566.805, F.S.; levying a tax on
14 the cultivation of cannabis; specifying the amount of
15 the tax; providing for the collection, payment, and
16 administration of the tax; providing for rulemaking;
17 creating s. 566.806, F.S.; providing definitions;
18 levying a tax on cannabis purchases; providing
19 exceptions; providing for the collection, payment, and
20 administration of the tax; requiring recordkeeping;
21 prohibiting specified offenses concerning the tax;
22 providing criminal penalties; providing for
23 rulemaking; providing a contingent effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 566.801, Florida Statutes, is created to read:

566.801 Fees.—Licensing and registration fees under this chapter are as follows:

(1) Early approval adult use dispensing organization license fees:

(a) Application under s. 566.202(2)(a), \$30,000.

(b) Renewal under s. 566.202(11)(a), \$30,000.

(c) Secondary location application under s. 566.202(15)(d)1., \$30,000.

(d) Secondary location renewal under s. 566.202(15)(p)1., \$30,000.

(2) Conditional adult use dispensing organization licenses:

(a) Under s. 566.203(4)(a), \$5,000.

(b) Under s. 566.203(7)(b), \$60,000.

(3) Adult use dispensing organization licenses:

(a) Initial license under s. 566.2032(2)(b), \$60,000.

(b) Renewal under s. 566.20331(3), \$60,000.

(4) Adult use dispensing organization agent:

(a) Identification card fees:

1. Initial card under s. 566.2033(1)(e), \$100.

2. Renewal card under s. 566.20331(3), \$100.

(b) Applicants for training approval:

- 51 1. Under s. 566.2033(1)(e), \$2,000.
- 52 2. Under s. 566.2033(16), \$2,000.
- 53 (5) Changes in ownership of a dispensing organization
 54 under s. 566.20334(10)(b), \$5,000.
- 55 (6) Early approval of adult use cultivation center
 56 licenses:
- 57 (a) Application fee under s. 566.3011(2)(a), \$100,000.
- 58 (b) Cannabis business development fee under s.
 59 566.3011(2)(g), \$250,000.
- 60 (c) Required contribution under s. 566.3011(2)(i),
 61 \$100,000.
- 62 (d) Renewal fee under s. 566.3011(3)(a), \$100,000.
- 63 (7) Conditional adult use license under s. 566.3013(4),
 64 \$100,000.
- 65 (8) Conditional adult use cultivation center license
 66 registration fee under s. 566.3014(2)(b), \$100,000.
- 67 (9) Cultivation center license renewal under s.
 68 566.3019(1)(a), \$100,000.
- 69 (10) Craft grower:
- 70 (a) Application fee under s. 566.401(2)(a)1., \$5,000.
- 71 (b) License fee under s. 566.401(3)(d), \$40,000.
- 72 (c) License renewal under s. 566.401(9)(a)1., \$40,000.
- 73 (11) Infuser organization:
- 74 (a) Application fee under s. 566.405(2)(a)1., \$5,000.
- 75 (b) License fee under s. 566.401(3)(d), \$5,000.

76 (c) Renewal application fee under s. 566.405(8)(a)1.,
 77 \$20,000.

78 (12) Transporting organizations:

79 (a) Application fee under s. 566.4501(2)(a)1., \$5,000.

80 (b) License fee under s. 566.4501(3)(e), \$10,000.

81 (c) Renewal fee under s. 566.4501(8)(a)1., \$10,000.

82 Section 2. Section 566.802, Florida Statutes, is created
 83 to read:

84 566.802 Contributions for early approval adult use
 85 dispensing organization licenses.-

86 (1) As provided in s. 566.202(2)(g), \$100,000.

87 (2) As provided in s. 566.202(2)(h)1., 2., or 3.,
 88 \$100,000.

89 (3) As provided in s. 566.202(2)(h)5., \$200,000.

90 Section 3. Section 566.803, Florida Statutes, is created
 91 to read:

92 566.803 Department may revise fees.-After January 1, 2021,
 93 the department may by rule modify any fee established under this
 94 chapter.

95 Section 4. Section 566.804, Florida Statutes, is created
 96 to read:

97 566.804 Mandatory contributions for early approval adult
 98 use dispensing organization licenses.-

99 (1) As provided in s. 566.202(2)(g), \$100,000.

100 (2) As provided in s. 566.202(2)(h)1., 2., or 3.,

101 \$100,000.

102 (3) As provided in s 566.202(2)(h)5., \$200,000.

103 (4) As provided in s. 566.202(15)(d)15., \$200.000.

104 Section 5. Subsections (1) through (4) of section 566.805,
 105 Florida Statutes, as created by HB 1597, are renumbered as
 106 subsections (9) through (12), respectively, and new subsections
 107 (1) through (8) are added to that section, to read:

108 566.805 Cannabis cultivation.—

109 (1) CULTIVATING CANNABIS PRIVILEGE.—

110 (a) Beginning January 1, 2022, a tax is imposed upon the
 111 privilege of cultivating cannabis at the rate of 7 percent of
 112 the gross receipts from the first sale of cannabis by a
 113 cultivator. The sale of any product that contains any amount of
 114 cannabis or any derivative thereof is subject to the tax under
 115 this section on the full selling price of the product. The
 116 department may determine the selling price of the cannabis when
 117 the seller and purchaser are affiliated persons, when the sale
 118 and purchase of cannabis is not an arm's length transaction, or
 119 when cannabis is transferred by a craft grower to the craft
 120 grower's dispensing organization or infuser or processing
 121 organization and a value is not established for the cannabis.
 122 The value determined by the department shall be commensurate
 123 with the actual price received for products of like quality,
 124 character, and use in the area. If there are no sales of
 125 cannabis of like quality, character, and use in the same area,

126 then the department shall establish a reasonable value based on
127 sales of products of like quality, character, and use in other
128 areas of the state, taking into consideration any other relevant
129 factors.

130 (b) The cannabis cultivation privilege tax imposed under
131 this section is solely the responsibility of the cultivator who
132 makes the first sale and is not the responsibility of a
133 subsequent purchaser, a dispensing organization, or an infuser.
134 Persons subject to the tax imposed under this section may;
135 however, reimburse themselves for their tax liability hereunder
136 by separately stating reimbursement for their tax liability as
137 an additional charge.

138 (c) The tax imposed under this section shall be in
139 addition to all other occupation, privilege, or excise taxes
140 imposed by the state or by any unit of local government.

141 (2) REGISTRATION OF CULTIVATORS.—Every cultivator and
142 craft grower subject to the tax under this section shall apply
143 to the Department of Revenue for a certificate of registration
144 under this section. All applications for registration under this
145 section shall be made by electronic means in the form and manner
146 required by the department. For that purpose, the provisions of
147 chapter 212 are incorporated into this section to the extent not
148 inconsistent with this section. In addition, no certificate of
149 registration shall be issued under this section unless the
150 applicant is licensed under this chapter.

151 (3) (a) RETURN AND PAYMENT.—Each person who is required to
152 pay the tax imposed by this section shall make a return to the
153 department on or before the 20th day of each month for the
154 preceding calendar month stating the following:

155 1. The taxpayer's name.

156 2. The address of the taxpayer's principal place of
157 business and the address of the principal place of business, if
158 that is a different address from which the taxpayer is engaged
159 in the business of cultivating cannabis subject to tax under
160 this section.

161 3. The total amount of receipts received by the taxpayer
162 during the preceding calendar month from sales of cannabis
163 subject to tax under this section by the taxpayer during the
164 preceding calendar month.

165 4. The total amount received by the taxpayer during the
166 preceding calendar month on charge and time sales of cannabis
167 subject to tax imposed under this section by the taxpayer before
168 the month for which the return is filed.

169 5. Deductions allowed by law.

170 6. Gross receipts that were received by the taxpayer
171 during the preceding calendar month and upon the basis of which
172 the tax is imposed.

173 7. The amount of tax due.

174 8. The signature of the taxpayer.

175 9. Any other information as the department may reasonably

176 require.

177 (b) All returns required to be filed and payments required
178 to be made under this section shall be by electronic means.
179 Taxpayers who demonstrate hardship in paying electronically may
180 petition the department to waive the electronic payment
181 requirement.

182 (c) The taxpayer making the return provided for in this
183 section shall also pay to the department, in accordance with
184 this section, the amount of tax imposed by this section, less a
185 discount of 1.75 percent, but not to exceed \$1,000 per return
186 period, which is allowed to reimburse the taxpayer for the
187 expenses incurred in keeping records, collecting tax, preparing
188 and filing returns, remitting the tax, and supplying data to the
189 department upon request. No discount may be claimed by a
190 taxpayer on returns not timely filed and for taxes not timely
191 remitted. No discount may be claimed by a taxpayer for any
192 return that is not filed electronically. No discount may be
193 claimed by a taxpayer for any payment that is not made
194 electronically, unless a waiver has been granted under this
195 section. Any amount that is required to be shown or reported on
196 any return or other document under this section shall, if the
197 amount is not a whole-dollar amount, be increased to the nearest
198 whole-dollar amount if the fractional part of a dollar is \$0.50
199 or more and decreased to the nearest whole-dollar amount if the
200 fractional part of a dollar is less than \$0.50. If a total

201 amount of less than \$1 is payable, refundable, or creditable,
202 the amount shall be disregarded if it is less than \$0.50 and
203 shall be increased to \$1 if it is \$0.50 or more. Notwithstanding
204 any other provision of this section concerning the time within
205 which a taxpayer may file a return, any such taxpayer who ceases
206 to engage in the kind of business that makes the person
207 responsible for filing returns under this section shall file a
208 final return under this section with the department within one
209 month after discontinuing such business. Each taxpayer under
210 this section shall make estimated payments to the department on
211 or before the 7th, 15th, 22nd, and last day of the month during
212 which tax liability to the department is incurred. The payments
213 shall be in an amount not less than the lower of either 22.5
214 percent of the taxpayer's actual tax liability for the month or
215 25 percent of the taxpayer's actual tax liability for the same
216 calendar month of the preceding year. The amount of the quarter-
217 monthly payments shall be credited against the final tax
218 liability of the taxpayer's return for that month. If any
219 quarter-monthly payment is not paid at the time or in the amount
220 required by this section, then the taxpayer shall be liable for
221 penalties and interest on the difference between the minimum
222 amount due as a payment and the amount of the quarter-monthly
223 payment actually and timely paid, except insofar as the taxpayer
224 has previously made payments for that month to the department in
225 excess of the minimum payments previously due as provided in

226 this section. If any payment provided for in this section
227 exceeds the taxpayer's liabilities under this section, as shown
228 on an original monthly return, the department shall, if
229 requested by the taxpayer, issue to the taxpayer a credit
230 memorandum no later than 30 days after the date of payment. The
231 credit evidenced by the credit memorandum may be assigned by the
232 taxpayer to a similar taxpayer under this chapter, in accordance
233 with reasonable rules to be prescribed by the department. If no
234 such request is made, the taxpayer may credit the excess payment
235 against tax liability subsequently to be remitted to the
236 department under this chapter, in accordance with reasonable
237 rules prescribed by the department. If the department
238 subsequently determines that all or any part of the credit taken
239 was not actually due to the taxpayer, the taxpayer's discount
240 shall be reduced, if necessary, to reflect the difference
241 between the credit taken and that actually due, and that
242 taxpayer shall be liable for penalties and interest on the
243 difference.

244 (d) If a taxpayer fails to sign a return within 30 days
245 after the proper notice and demand for signature by the
246 department is received by the taxpayer, the return shall be
247 considered valid and any amount shown to be due on the return
248 shall be deemed assessed.

249 (4) INFUSER INFORMATION RETURNS.—If it is deemed necessary
250 for the administration of this section, the department may adopt

251 rules that require infusers to file information returns
252 regarding the sale of cannabis by infusers to dispensaries. The
253 department may require infusers to file all information returns
254 by electronic means.

255 (5) DEPOSIT OF PROCEEDS.—All moneys received by the
256 department under this section shall be deposited into the
257 Alcoholic Beverage, Marijuana, and Tobacco Trust Fund.

258 (6) ADMINISTRATION AND ENFORCEMENT.—The department shall
259 have full power to administer and enforce this section, to
260 collect all taxes, penalties, and interest due hereunder, to
261 dispose of taxes, penalties and interest so collected in the
262 manner hereinafter provided, and to determine all rights to
263 credit memoranda, arising on account of the erroneous payment of
264 tax, penalty, or interest hereunder. In the administration of,
265 and compliance with, this section, the department and persons
266 who are subject to this section shall have the same rights,
267 remedies, privileges, immunities, powers, and duties, and be
268 subject to the same conditions, restrictions, limitations,
269 penalties, and definitions of terms, and employ the same modes
270 of procedure, as are prescribed in chapter 212 which are not
271 inconsistent with this section, as fully as if those provisions
272 were set forth herein.

273 (7) INVOICES.—Every sales invoice for cannabis issued by a
274 cultivator to a cannabis business establishment shall contain
275 the cultivator's certificate of registration number assigned

276 under this section, date, invoice number, purchaser's name and
277 address, selling price, amount of cannabis, concentrate, or
278 cannabis-infused product, and any other reasonable information
279 as the department may provide by rule is necessary for the
280 administration of this section. Cultivators shall retain the
281 invoices for inspection by the department.

282 (8) RULES.—The department may adopt rules related to the
283 enforcement of this section.

284 Section 6. Section 566.806, Florida Statutes, is created
285 to read:

286 566.806 Cannabis purchaser excise tax.—

287 (1) DEFINITIONS. As used in his section, the term:

288 (a) "Adjusted delta-9-tetrahydrocannabinol level" means,
289 for a delta-9-tetrahydrocannabinol dominant product, the sum of
290 the percentage of delta-9-tetrahydrocannabinol plus .877
291 multiplied by the percentage of tetrahydrocannabinolic acid.

292 (b) "Cannabis-infused product" means beverage food, oils,
293 ointments, tincture, topical formulation, or another product
294 containing cannabis that is not intended to be smoked.

295 (c) "Cannabis retailer" means a dispensing organization
296 that sells cannabis for use and not for resale.

297 (d) "Department" means the Department of Revenue.

298 (e) "Infuser organization" or "infuser" means a facility
299 operated by an organization or business that is licensed by the
300 Department of Business and Professional Regulation to directly

301 incorporate cannabis or cannabis concentrate into a product
302 formulation to produce a cannabis-infused product.

303 (f) "Purchase price" means the consideration paid for a
304 purchase of cannabis, valued in money, whether received in money
305 or otherwise, including cash, gift cards, credits, and property
306 and shall be determined without any deduction on account of the
307 cost of materials used, labor or service costs, or any other
308 expense whatsoever. However, "purchase price" does not include
309 consideration paid for:

310 1. Any charge for a payment that is not honored by a
311 financial institution;

312 2. Any finance or credit charge, penalty or charge for
313 delayed payment, or discount for prompt payment; and

314 3. Any amount added to a purchaser's bill because of
315 charges made under the tax imposed by this section or any other
316 sales or use tax.

317 (g) "Purchaser" means a person who acquires cannabis for a
318 valuable consideration.

319 (h) "Taxpayer" means a cannabis retailer who is required to
320 collect the tax imposed under this section.

321 (2) TAX IMPOSED.—

322 (a) Beginning January 1, 2022, a tax is imposed upon
323 purchasers for the privilege of using cannabis at the following
324 rates:

325 1. Any cannabis, other than a cannabis-infused product,

326 with an adjusted delta-9-tetrahydrocannabinol level at or below
327 35 percent shall be taxed at a rate of 10 percent of the
328 purchase price;

329 2. Any cannabis, other than a cannabis-infused product,
330 with an adjusted delta-9-tetrahydrocannabinol level above 35
331 percent shall be taxed at a rate of 25 percent of the purchase
332 price; and

333 3. A cannabis-infused product shall be taxed at a rate of
334 20 percent of the purchase price.

335 (b) The purchase of any product that contains any amount
336 of cannabis or any derivative thereof is subject to the tax
337 under paragraph (a) on the full purchase price of the product.

338 (c) The tax imposed under this section is not imposed on
339 cannabis that is sold for medical use as defined in s. 381.986
340 and purchased by a person listed on the Medical Marijuana Use
341 Registry. The tax imposed by this section is not imposed with
342 respect to any transaction in interstate commerce, to the extent
343 the transaction may not, under the constitution and statutes of
344 the United States, be made the subject of taxation by this
345 state.

346 (d) The tax imposed under this section shall be in
347 addition to all other occupation, privilege, or excise taxes
348 imposed by the state of or by any political subdivision.

349 (e) The tax imposed under this section shall not be
350 imposed on any purchase by a purchaser if the cannabis retailer

351 is prohibited by federal or State Constitution, treaty,
352 convention, statute, or court decision from collecting the tax
353 from the purchaser.

354 (3) BUNDLING OF TAXABLE AND NONTAXABLE ITEMS; PROHIBITION;
355 TAXATION.—If a cannabis retailer sells cannabis, concentrate, or
356 cannabis-infused products in combination or bundled with items
357 that are not subject to tax under this section for one price,
358 then the tax under this section is imposed on the purchase price
359 of the entire bundled product.

360 (4) COLLECTION OF TAX.—

361 (a) The tax imposed by this section shall be collected
362 from the purchaser by the cannabis retailer at the rate stated
363 in subsection (2) with respect to cannabis sold by the cannabis
364 retailer to the purchaser, and shall be remitted to the
365 department as provided in this section. All sales to a purchaser
366 who is not a cardholder under s. 381.986 are presumed subject to
367 tax collection. Cannabis retailers shall collect the tax from
368 purchasers by adding the tax to the amount of the purchase price
369 received from the purchaser for selling cannabis to the
370 purchaser. The tax imposed by this section shall, when
371 collected, be stated as a distinct item separate and apart from
372 the purchase price of the cannabis.

373 (b) If a cannabis retailer collects cannabis purchaser
374 excise tax measured by a purchase price that is not subject to
375 cannabis purchaser excise tax, or if a cannabis retailer, in

376 collecting cannabis purchaser excise tax measured by a purchase
377 price that is subject to tax under this section, collects more
378 from the purchaser than the required amount of the cannabis
379 purchaser excise tax on the transaction, the purchaser shall
380 have a legal right to claim a refund of that amount from the
381 cannabis retailer. If, however, that amount is not refunded to
382 the purchaser for any reason, the cannabis retailer is liable to
383 pay that amount to the department.

384 (c) Any person purchasing cannabis subject to tax under
385 this section as to which there has been no charge made to him or
386 her of the tax imposed by subsection (2) shall make payment of
387 the tax imposed by subsection (2) in the form and manner
388 provided by the department not later than the 20th day of the
389 month following the month of purchase of the cannabis.

390 (5) REGISTRATION OF RETAILERS.—Every cannabis retailer
391 required to collect the tax under this section shall apply to
392 the department for a certificate of registration under this
393 section. All applications for registration under this section
394 shall be made by electronic means in the form and manner
395 required by the department. For that purpose, the provisions of
396 chapter 212 are incorporated into this section to the extent not
397 inconsistent with this section. In addition, no certificate of
398 registration shall be issued under this section unless the
399 applicant is licensed under this chapter.

400 (6) TAX COLLECTED AS DEBT OWED TO STATE.—Any cannabis

401 retailer required to collect the tax imposed by this section
402 shall be liable to the department for the tax, whether or not
403 the tax has been collected by the cannabis retailer, and any
404 such tax shall constitute a debt owed by the cannabis retailer
405 to this state. To the extent that a cannabis retailer required
406 to collect the tax imposed by this section has actually
407 collected that tax, the tax is held in trust for the benefit of
408 the department.

409 (7) RETURN AND PAYMENT.—

410 (a) Each cannabis retailer that is required or authorized
411 to collect the tax imposed by this section shall make a return
412 to the department, by electronic means, on or before the 20th
413 day of each month for the preceding calendar month stating the
414 following:

415 1. The cannabis retailer's name.

416 2. The address of the cannabis retailer's principal place
417 of business and the address of the principal place of business,
418 if that is a different address from which the cannabis retailer
419 engaged in the business of selling cannabis subject to tax under
420 this section.

421 3. The total purchase price received by the cannabis
422 retailer for cannabis subject to tax under this section.

423 4. The amount of tax due at each rate.

424 5. The signature of the cannabis retailer.

425 6. Any other information as the department may reasonably

426 require.

427 (b) All returns required to be filed and payments required
428 to be made under this section shall be by electronic means.
429 Cannabis retailers who demonstrate hardship in paying
430 electronically may petition the department to waive the
431 electronic payment requirement.

432 (c) Any amount that is required to be shown or reported on
433 any return or other document under this section shall, if the
434 amount is not a whole-dollar amount, be increased to the nearest
435 whole-dollar amount if the fractional part of a dollar is \$0.50
436 or more and decreased to the nearest whole-dollar amount if the
437 fractional part of a dollar is less than \$0.50. If a total
438 amount of less than \$1 is payable, refundable, or creditable,
439 the amount shall be disregarded if it is less than \$0.50 and
440 shall be increased to \$1 if it is \$0.50 or more.

441 (d) The cannabis retailer making the return provided for
442 in this section shall also pay to the department, in accordance
443 with this section, the amount of tax imposed by this section,
444 less a discount of 1.75 percent, but not to exceed \$1,000 per
445 return period, which is allowed to reimburse the cannabis
446 retailer for the expenses incurred in keeping records,
447 collecting tax, preparing and filing returns, remitting the tax,
448 and supplying data to the department upon request. No discount
449 may be claimed by a cannabis retailer on returns not timely
450 filed and for taxes not timely remitted. No discount may be

451 claimed by a taxpayer for any return that is not filed
452 electronically. No discount may be claimed by a taxpayer for any
453 payment that is not made electronically, unless a waiver has
454 been granted under this section.

455 (e) Notwithstanding any other provision of this section
456 concerning the time within which a cannabis retailer may file a
457 return, any such cannabis retailer who ceases to engage in the
458 kind of business that makes the person responsible for filing
459 returns under this section shall file a final return under this
460 section with the department within one month after discontinuing
461 the business.

462 (f) Each cannabis retailer shall make estimated payments
463 to the department on or before the 7th, 15th, 22nd, and last day
464 of the month during which tax liability to the department is
465 incurred. The payments shall be in an amount not less than the
466 lower of either 22.5 percent of the cannabis retailer's actual
467 tax liability for the month or 25 percent of the cannabis
468 retailer's actual tax liability for the same calendar month of
469 the preceding year. The amount of the quarter-monthly payments
470 shall be credited against the final tax liability of the
471 cannabis retailer's return for that month. If any such quarter-
472 monthly payment is not paid at the time or in the amount
473 required by this section, then the cannabis retailer shall be
474 liable for penalties and interest on the difference between the
475 minimum amount due as a payment and the amount of the quarter-

476 monthly payment actually and timely paid, except insofar as the
477 cannabis retailer has previously made payments for that month to
478 the department in excess of the minimum payments previously due
479 as provided in this section. If any payment provided for in this
480 section exceeds the taxpayer's liabilities under this section,
481 as shown on an original monthly return, the department shall, if
482 requested by the taxpayer, issue to the taxpayer a credit
483 memorandum no later than 30 days after the date of payment. The
484 credit evidenced by the credit memorandum may be assigned by the
485 taxpayer to a similar taxpayer under this section, in accordance
486 with reasonable rules to be prescribed by the department. If no
487 such request is made, the taxpayer may credit the excess payment
488 against tax liability subsequently to be remitted to the
489 Department under this section, in accordance with reasonable
490 rules prescribed by the department. If the department
491 subsequently determines that all or any part of the credit taken
492 was not actually due to the taxpayer, the taxpayer's discount
493 shall be reduced, if necessary, to reflect the difference
494 between the credit taken and that actually due, and that
495 taxpayer shall be liable for penalties and interest on the
496 difference.

497 (g) If a cannabis retailer fails to sign a return within
498 30 days after the proper notice and demand for signature by the
499 department is received by the cannabis retailer, the return
500 shall be considered valid and any amount shown to be due on the

501 return shall be deemed assessed.

502 (8) DEPOSIT OF PROCEEDS.—All moneys received by the
503 department under this section shall be paid into the Cannabis
504 Regulation Fund.

505 (9) RECORDKEEPING; BOOKS AND RECORDS.—

506 (a) Every retailer of cannabis, whether or not the
507 retailer has obtained a certificate of registration under
508 subsection (5), shall keep complete and accurate records of
509 cannabis held, purchased, sold, or otherwise disposed of, and
510 shall preserve and keep all invoices, bills of lading, sales
511 records, and copies of bills of sale, returns, and other
512 pertinent papers and documents relating to the purchase, sale,
513 or disposition of cannabis. Such records need not be maintained
514 on the licensed premises but must be maintained in the this
515 state. However, all original invoices or copies thereof covering
516 purchases of cannabis must be retained on the licensed premises
517 for a period of 90 days after such purchase, unless the
518 department has granted a waiver in response to a written request
519 in cases where records are kept at a central business location
520 within the state. The department shall adopt rules regarding the
521 eligibility for a waiver, revocation of a waiver, and
522 requirements and standards for maintenance and accessibility of
523 records located at a central location under a waiver provided
524 under this section.

525 (b) Books, records, papers, and documents that are

526 required by this section to be kept shall, at all times during
527 the usual business hours of the day, be subject to inspection by
528 the department or its duly authorized agents and employees. The
529 books, records, papers, and documents for any period with
530 respect to which the department is authorized to issue a notice
531 of tax liability shall be preserved until the expiration of that
532 period.

533 (10) VIOLATIONS AND PENALTIES.—

534 (a) When the amount due is under \$300, any retailer of
535 cannabis who fails to file a return, willfully fails or refuses
536 to make any payment to the department of the tax imposed by this
537 section, or files a fraudulent return, or any officer or agent
538 of a corporation engaged in the business of selling cannabis to
539 purchasers located in this state who signs a fraudulent return
540 filed on behalf of the corporation, or any accountant or other
541 agent who knowingly enters false information on the return of
542 any taxpayer under this section commits a felony of the third
543 degree, punishable as provided in s. 775.082, s. 775.083, or s.
544 775.084.

545 (b) When the amount due is \$300 or more, any retailer of
546 cannabis who files, or causes to be filed, a fraudulent return,
547 or any officer or agent of a corporation engaged in the business
548 of selling cannabis to purchasers located in this state who
549 files or causes to be filed or signs or causes to be signed a
550 fraudulent return filed on behalf of the corporation, or any

551 accountant or other agent who knowingly enters false information
552 on the return of any taxpayer under this section a felony of the
553 second degree, punishable as provided in s. 775.082, s. 775.083,
554 or s. 775.084.

555 (c) Any person who violates any provision of subsection
556 (5), fails to keep books and records as required under this
557 section, or willfully violates a rule of the department for the
558 administration and enforcement of this section commits a felony
559 of the third degree, punishable as provided in s. 775.082, s.
560 775.083, or s. 775.084. A person commits a separate offense on
561 each day that he or she engages in business in violation of
562 subsection (5) or a rule of the department for the
563 administration and enforcement of this section. If a person
564 fails to produce the books and records for inspection by the
565 department upon request, a prima facie presumption shall arise
566 that the person has failed to keep books and records as required
567 under this section. A person who is unable to rebut this
568 presumption is in violation of this section and is subject to
569 the penalties provided in this section.

570 (d) Any person who violates any provision of subsection
571 (5), fails to keep books and records as required under this
572 section, or willfully violates a rule of the department for the
573 administration and enforcement of this section, is guilty of a
574 civil violation and may be fined up to \$5,000. If a person fails
575 to produce books and records for inspection by the department

576 upon request, a prima facie presumption shall arise that the
577 person has failed to keep books and records as required under
578 this section. A person who is unable to rebut this presumption
579 is in violation of this section and is subject to the penalties
580 provided in this section. A person commits a separate offense on
581 each day that he or she engages in business in violation of
582 subsection (5).

583 (e) Any person who fails to keep books and records or
584 fails to produce books and records for inspection, as required
585 by subsection (9), is liable to pay to the department a penalty
586 of \$1,000 for the first failure to keep books and records or
587 failure to produce books and records for inspection, as required
588 by subsection (9), and \$3,000 for each subsequent failure to
589 keep books and records or failure to produce books and records
590 for inspection, as required by subsection (9).

591 (f) A person who knowingly acts as a retailer of cannabis
592 in this State without first having obtained a certificate of
593 registration to do so in compliance with subsection (5) commits
594 a felony of the third degree, punishable as provided in s.
595 775.082, s. 775.083, or s. 775.084.

596 (g)1. A person commits the offense of tax evasion under
597 this section when he or she knowingly attempts in any manner to
598 evade or defeat the tax imposed on him or her or on any other
599 person, or the payment thereof, and he or she commits an
600 affirmative act in furtherance of the evasion. As used in this

601 Section, "affirmative act in furtherance of the evasion" means
602 an act designed in whole or in part to conceal, misrepresent,
603 falsify, or manipulate any material fact or tamper with or
604 destroy documents or materials related to a person's tax
605 liability under this section. Two or more acts of sales tax
606 evasion may be charged as a single count in any indictment,
607 information, or complaint and the amount of tax deficiency may
608 be aggregated for purposes of determining the amount of tax that
609 is attempted to be or is evaded and the period between the first
610 and last acts may be alleged as the date of the offense.

611 a. When the amount of tax, the assessment or payment of
612 which is attempted to be or is evaded is less than \$500, a
613 person commits a felony of the third degree, punishable as
614 provided in s. 775.082, s. 775.083, or s. 775.084.

615 b. When the amount of tax, the assessment or payment of
616 which is attempted to be or is evaded is \$500 or more but less
617 than \$10,000, a person commits a felony of the second degree,
618 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

619 c. When the amount of tax, the assessment or payment of
620 which is attempted to be or is evaded is \$10,000 or more but
621 less than \$100,000, a person commits a felony of the second
622 degree, punishable as provided in s. 775.082, s. 775.083, or s.
623 775.084.

624 d. When the amount of tax, the assessment or payment of
625 which is attempted to be or is evaded is \$100,000 or more, a

626 person commits a felony of the first degree, punishable as
627 provided in s. 775.082, s. 775.083, or s. 775.084.

628 2.a. A person who knowingly sells, purchases, installs,
629 transfers, possesses, uses, or accesses any automated sales
630 suppression device, zapper, or phantom-ware in this state
631 commits a felony of the second degree, punishable as provided in
632 s. 775.082, s. 775.083, or s. 775.084.

633 b. As used in this sub-subsection the term:

634 (I) "Automated sales suppression device" or "zapper" means
635 a software program that falsifies the electronic records of an
636 electronic cash register or other point-of-sale system,
637 including, but not limited to, transaction data and transaction
638 reports. The term includes the software program, any device that
639 carries the software program, or an Internet link to the
640 software program.

641 (II) "Phantom-ware" means a hidden programming option
642 embedded in the operating system of an electronic cash register
643 or hardwired into an electronic cash register that can be used
644 to create a second set of records or that can eliminate or
645 manipulate transaction records in an electronic cash register.

646 (III) "Electronic cash register" means a device that keeps
647 a register or supporting documents through the use of an
648 electronic device or computer system designed to record
649 transaction data for the purpose of computing, compiling, or
650 processing retail sales transaction data in any manner.

651 (IV) "Transaction data" includes items purchased by a
652 purchaser; the price of each item; a taxability determination
653 for each item; a segregated tax amount for each taxed item; the
654 amount of cash or credit tendered; the net amount returned to
655 the customer in change; the date and time of the purchase; the
656 name, address, and identification number of the vendor; and the
657 receipt or invoice number of the transaction.

658 (V) "Transaction report" means a report that documents,
659 without limitation, the sales, taxes, or fees collected, media
660 and discount voids at an electronic cash register and that is
661 printed on a cash register tape at the end of a day or shift, or
662 a report that documents every action at an electronic cash
663 register and is stored electronically.

664 c. A prosecution for any act in violation of this sub-
665 subsection may be commenced at any time within 5 years of the
666 commission of that act.

667 (h) The department may adopt rules to administer the
668 penalties under this section.

669 (i) A person whose principal place of business is in this
670 state and who is charged with a violation under this section
671 shall be tried in the county where his or her principal place of
672 business is located unless he or she asserts a right to be tried
673 in another venue.

674 (j) Except as otherwise provided in paragraph (h), a
675 prosecution for a violation described in this subsection may be

676 commenced within 3 years after the commission of the act
677 constituting the violation.

678 (11) ADMINISTRATION AND ENFORCEMENT.—The department shall
679 have full power to administer and enforce this section, to
680 collect all taxes and penalties due hereunder, to dispose of
681 taxes and penalties so collected in the manner hereinafter
682 provided, and to determine all rights to credit memoranda,
683 arising on account of the erroneous payment of tax or penalty
684 hereunder. In the administration of, and compliance with, this
685 section, the department and persons who are subject to this
686 section shall have the same rights, remedies, privileges,
687 immunities, powers, and duties, and be subject to the same
688 conditions, restrictions, limitations, penalties, and
689 definitions of terms, and employ the same modes of procedure, as
690 are prescribed in chapter 212 that are not inconsistent with
691 this section, as fully as if those provisions were set forth
692 herein.

693 (16) RULEMAKING.—The department may adopt rules and
694 prescribe forms relating to the administration and enforcement
695 of this section.

696 Section 7. Except as otherwise provided herein, this act
697 shall take effect on the same date that HB 1597 or similar
698 legislation takes effect, if such legislation is adopted in the
699 same legislative session or an extension thereof and becomes a
700 law.