

1 A bill to be entitled

2 An act relating to recreational marijuana; amending s.
3 20.165, F.S.; renaming the Division of Alcoholic
4 Beverages and Tobacco of the Department of Business
5 and Professional Regulation; amending s. 561.025,
6 F.S.; renaming the Alcoholic Beverage and Tobacco
7 Trust Fund; specifying distribution of funds;
8 providing a directive to the Division of Law Revision
9 and Information; creating chapter 566, F.S., relating
10 to recreational marijuana; providing definitions
11 relating to an excise tax on recreational marijuana;
12 imposing an excise tax on recreational marijuana;
13 providing for inflation adjustments to the tax rate;
14 providing for collection of the tax; providing for
15 distribution of tax revenues; requiring an annual
16 report concerning tax revenues; providing definitions
17 relating to regulation of recreational marijuana;
18 exempting certain activities involving marijuana from
19 use and possession offenses; authorizing persons age
20 21 and over to engage in certain activities involving
21 personal use of marijuana in limited amounts;
22 providing limits on where persons may engage in
23 specified activities; prohibiting the use of false
24 identification by persons under 21 years of age for
25 specified activities relating to recreational
26 marijuana; providing noncriminal penalties; providing

27 | for alternative sentencing; providing for licensure of
28 | marijuana establishments that may engage in the
29 | manufacture, possession, or purchase of marijuana,
30 | marijuana products, and marijuana accessories or sell
31 | marijuana, marijuana products, or marijuana
32 | accessories to a consumer; specifying duties of the
33 | Division of Alcoholic Beverages, Marijuana, and
34 | Tobacco; providing for enforcement of regulatory
35 | provisions; authorizing agreements with other entities
36 | for certain enforcement activities; requiring an
37 | annual report; providing for licensing of marijuana
38 | establishments; providing for license fees; providing
39 | for a licenses process; providing limits on the number
40 | of retail marijuana stores in localities based on
41 | population; providing standards for prospective
42 | licensees; providing restrictions on the location of
43 | marijuana establishments; prohibiting certain
44 | activities by marijuana establishments; providing
45 | procedures when a marijuana establishment's license
46 | expires; authorizing localities to prohibit one or
47 | more types of marijuana establishments through local
48 | ordinance; authorizing localities to specify an entity
49 | within the locality to be responsible for processing
50 | applications for a license to operate a marijuana
51 | establishment; providing for submission of
52 | applications to localities if the division has not

53 | issued establishment licenses by a specified date;
54 | specifying duties of the Attorney General concerning
55 | federal subpoenas; providing an exemption from
56 | specified provisions for marijuana research;
57 | specifying that the chapter does not apply to employer
58 | drug policies or operating under the influence laws;
59 | specifying that the chapter does not allow persons
60 | under 21 years of age to engage in activities
61 | permitted therein; providing that the rights of
62 | property owners are not affected; authorizing
63 | rulemaking; specifying that conduct allowed by the
64 | chapter may not be considered the basis for the
65 | finding of a lack of good moral character as that term
66 | is used in law; providing for emergency rulemaking;
67 | amending s. 500.03, F.S.; providing that marijuana
68 | establishments that sell food containing marijuana are
69 | considered food service establishments for the
70 | purposes of specified regulations; creating s.
71 | 500.105, F.S.; specifying that food products
72 | containing marijuana that are prepared in permitted
73 | food establishments and sold by licensed retail
74 | marijuana stores are not considered adulterated;
75 | amending s. 562.13, F.S.; providing that it is
76 | unlawful for marijuana establishments to employ
77 | persons under 18 years of age; amending s. 569.0073,
78 | F.S.; exempting licensed marijuana establishments from

79 specified provisions regulating the sale of pipes and
 80 smoking devices; amending ss. 893.13 and 893.135,
 81 F.S.; providing that conduct authorized under chapter
 82 566, F.S., is not prohibited by specified controlled
 83 substance prohibitions; providing effective dates.
 84

85 Be It Enacted by the Legislature of the State of Florida:
 86

87 Section 1. Paragraph (b) of subsection (2) of section
 88 20.165, Florida Statutes, is amended to read:

89 20.165 Department of Business and Professional
 90 Regulation.—There is created a Department of Business and
 91 Professional Regulation.

92 (2) The following divisions of the Department of Business
 93 and Professional Regulation are established:

94 (b) Division of Alcoholic Beverages, Marijuana, and
 95 Tobacco.

96 Section 2. Section 561.025, Florida Statutes, is amended
 97 to read:

98 561.025 Alcoholic Beverage, Marijuana, and Tobacco Trust
 99 Fund.—There is created within the State Treasury the Alcoholic
 100 Beverage, Marijuana, and Tobacco Trust Fund. All funds collected
 101 by the division under ss. 210.15, 210.40, or under s. 569.003
 102 and the Beverage Law with the exception of state funds collected
 103 pursuant to ss. 563.05, 564.06, and 565.12 shall be deposited in
 104 the State Treasury to the credit of the trust fund,

105 notwithstanding any other provision of law to the contrary. In
 106 addition, funds collected by the division under chapter 566
 107 shall be deposited into the trust fund, except that funds from
 108 the excise tax in s. 566.012 shall be deposited as provided in
 109 s. 566.013. Moneys deposited to the credit of the trust fund
 110 shall be used to operate the division and to provide a
 111 proportionate share of the operation of the office of the
 112 secretary and the Division of Administration of the Department
 113 of Business and Professional Regulation; except that:

114 (1) The revenue transfer provisions of ss. 561.32 and
 115 561.342(1) and (2) shall continue in full force and effect, and
 116 the division shall cause such revenue to be returned to the
 117 municipality or county in the manner provided for in s. 561.32
 118 or s. 561.342(1) and (2). ~~;~~ and

119 (2) Ten percent of the revenues derived from retail
 120 tobacco products dealer permit fees collected under s. 569.003
 121 shall be transferred to the Department of Education to provide
 122 for teacher training and for research and evaluation to reduce
 123 and prevent the use of tobacco products by children.

124 (3) Until January 1, 2023, an amount equal to 5 percent of
 125 the revenues received by the division during the previous month
 126 pursuant to the tax imposed by s. 566.012 shall be transferred
 127 to the Department of Health to be used to provide grants for the
 128 purpose of producing peer-reviewed research on marijuana's
 129 beneficial uses and safety.

130 Section 3. The Division of Law Revision and Information is

131 directed to prepare a reviser's bill for the 2015 Regular
132 Session of the Legislature to redesignate the Division of
133 Alcoholic Beverages and Tobacco of the Department of business
134 and Professional Regulation as the "Division of Alcoholic
135 Beverages, Marijuana, and Tobacco" and the Alcoholic Beverage
136 and Tobacco Trust Fund as the "Alcoholic Beverage, Marijuana,
137 and Tobacco Trust Fund," respectively, wherever those terms
138 appear in the Florida Statutes.

139 Section 4. Chapter 566, Florida Statutes, consisting of
140 sections 566.011 through 566.042, is created to read:

141 CHAPTER 566

142 RECREATIONAL MARIJUANA

143 PART I

144 EXCISE TAX

145 566.011 Definitions.—As used in this part, the term:

146 (1) "Department" means the Department of Business and
147 Professional Regulation.

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

150 (3) "Marijuana" means all parts of the plant of the genus
151 cannabis, whether growing or not, the seeds thereof, the resin
152 extracted from any part of the plant, and every compound,
153 manufacture, salt, derivative, mixture, or preparation of the
154 plant, its seeds, or its resin, including marijuana concentrate.
155 The term does not include industrial hemp, fiber produced from
156 the stalks, oil, cake made from the seeds of the plant,

157 sterilized seed of the plant that is incapable of germination,
 158 or the weight of any ingredient combined with marijuana to
 159 prepare topical or oral administrations, food, drink, or any
 160 other product.

161 (4) "Marijuana cultivation facility" means an entity
 162 licensed to cultivate, prepare, and package and sell marijuana
 163 to retail marijuana stores, to marijuana product manufacturing
 164 facilities, and to other marijuana cultivation facilities, but
 165 not to consumers.

166 (5) "Marijuana establishment" means a marijuana
 167 cultivation facility, marijuana testing facility, marijuana
 168 product manufacturing facility, or retail marijuana store.

169 (6) "Marijuana product manufacturing facility" means an
 170 entity licensed to:

171 (a) Purchase marijuana;

172 (b) Manufacture, prepare, and package marijuana products;

173 or

174 (c) Sell marijuana and marijuana products to other
 175 marijuana product manufacturing facilities and to retail
 176 marijuana stores, but not to consumers.

177 (7) "Marijuana products" means concentrated marijuana and
 178 products that consist of marijuana and other ingredients and are
 179 intended for use or consumption, including, but not limited to,
 180 edible products, ointments, and tinctures.

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

183 (9) "Retail marijuana store" means an entity licensed to
184 purchase marijuana from a marijuana cultivation facility and
185 marijuana products from a marijuana product manufacturing
186 facility and to sell marijuana and marijuana products to
187 consumers.

188 566.012 Excise tax on marijuana.-

189 (1) An excise tax is imposed on the sale or transfer of
190 marijuana from a marijuana cultivation facility to a retail
191 marijuana store or marijuana product manufacturing facility.
192 Each marijuana cultivation facility shall pay an excise tax at
193 the rate of \$50 per ounce, or proportionate part thereof, on
194 marijuana that is sold or transferred from a marijuana
195 cultivation facility pursuant to part II.

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

198 (a) Beginning in 2016, on or about February 15 of each
199 year, the department shall calculate the adjusted excise tax
200 rates by multiplying the rates in effect on the calculation date
201 by an inflation index computed as provided in paragraph (b). The
202 adjusted rates must be rounded to the nearest penny and become
203 effective on the first day of July immediately after the
204 calculation. The division shall publish the annually adjusted
205 excise tax rates and shall provide all necessary forms and
206 reports.

207 (b) The inflation index is the Consumer Price Index for
208 All Urban Consumers, U.S. City Average, or successor reports, as

209 reported by the United States Department of Labor, Bureau of
210 Labor Statistics, for the calendar year ending on December 31
211 immediately before the calculation date, divided by the Consumer
212 Price Index for the previous calendar year. The inflation index
213 may not be less than one.

214 (c)1. A marijuana cultivation facility subject to the
215 licensing requirement of s. 566.034 shall file, on or before the
216 last day of each month, a return on a form prescribed and
217 furnished by the division together with payment of the tax due
218 under this part. The return must report all marijuana products
219 held, purchased, manufactured, brought in, or caused to be
220 brought in from outside the state or shipped or transported to a
221 retail marijuana store or marijuana product manufacturing
222 facility within the state during the previous calendar month. A
223 marijuana cultivation facility shall keep a complete and
224 accurate record at its principal place of business to
225 substantiate all receipts and sales of marijuana products.

226 2. The return must include further information as the
227 division may prescribe. Tax previously paid on marijuana
228 products that are returned to a marijuana establishment because
229 the product has become unfit for use, sale, or consumption and
230 for marijuana products that are returned to a marijuana
231 cultivation facility that are subsequently destroyed by the
232 marijuana cultivation facility may be taken as a credit on a
233 subsequent return. The division may either witness the
234 destruction of the product or may accept another form of proof

235 that the product has been destroyed by the marijuana cultivation
236 facility.

237 3. A person who is not a marijuana cultivation facility
238 licensed pursuant to S. 566.034 who imports, receives, or
239 otherwise acquires marijuana products for use or consumption in
240 the state from a person other than a licensed marijuana
241 cultivation facility shall file, on or before the last day of
242 the month after each month in which marijuana products were
243 acquired, a return on a form prescribed by the division together
244 with payment of the tax imposed by this part at the rate
245 provided in subsection (1). The return must report the quantity
246 of marijuana products imported, received, or otherwise acquired
247 from a person other than a licensed marijuana cultivation
248 facility during the previous calendar month and additional
249 information that the division may require.

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

253 566.013 Distribution of revenues.—Revenues derived from
254 the tax imposed by this part must be credited to the General
255 Revenue Fund. On or before the last day of each month, the Chief
256 Financial Officer shall transfer 15 percent of the revenue
257 received by the division during the preceding month pursuant to
258 the tax imposed by s. 566.012 to the Alcoholic Beverage,
259 Marijuana, and Tobacco Trust Fund established under s. 561.025.
260 On or before the last day of each month, the Chief Financial

261 Officer shall transfer the remainder of the revenues to the
 262 General Revenue Fund.

263 566.014 Annual report.—The division shall report annually
 264 beginning January 30, 2016, the amount of tax revenue collected
 265 pursuant to s. 566.012 and the amount distributed pursuant to s.
 266 561.025(3) to the appropriations committees of each house of the
 267 Legislature.

268 PART II

269 MARIJUANA REGULATION

270 566.031 Definitions.—As used in this part, the term:

271 (1) "Consumer" means a person 21 years of age or older who
 272 purchases marijuana or marijuana products for personal use by
 273 persons 21 years of age or older, but not for resale to others.

274 (2) "Department" has the same meaning as provided in s.
 275 566.011.

276 (3) "Division" has the same meaning as provided in s.
 277 566.011.

278 (4) "Licensee" means any individual, partnership,
 279 corporation, firm, association, or other legal entity holding a
 280 marijuana establishment license within the state.

281 (5) "Locality" means a municipality or, in reference to a
 282 location in the unorganized territory, the county in which that
 283 locality is located.

284 (6) "Marijuana" has the same meaning as provided in s.
 285 566.011.

286 (7) "Marijuana accessories" means equipment, products, or

287 materials of any kind that are used, intended, or designed for
288 use in planting, propagating, cultivating, growing, harvesting,
289 composting, manufacturing, compounding, converting, producing,
290 processing, preparing, testing, analyzing, packaging,
291 repackaging, storing, vaporizing, or containing marijuana or for
292 ingesting, inhaling, or otherwise introducing marijuana into the
293 human body.

294 (8) "Marijuana cultivation facility" has the same meaning
295 as provided in s. 566.011.

296 (9) "Marijuana establishment" has the same meaning as
297 provided in s. 566.011.

298 (10) "Marijuana product manufacturing facility" has the
299 same meaning as provided in s. 566.011.

300 (11) "Marijuana testing facility" means an entity licensed
301 to analyze and certify the safety and potency of marijuana.

302 (12) "Minor" means a person under 21 years of age.

303 (13) "Retail marijuana store" has the same meaning as
304 provided in s. 566.011.

305 (14) "Seedling" means a marijuana plant that has no
306 flowers, is less than 12 inches in height, and is less than 12
307 inches in diameter.

308 566.032 Exemption from criminal and noncriminal penalties,
309 seizure, or forfeiture.—Notwithstanding chapter 893 or any other
310 provision of law, and except as provided in this part, the
311 actions specified in this part are legal under the laws of this
312 state and do not constitute a civil or criminal offense under

313 the laws of this state or the law of any political subdivision
314 within this state or serve as a basis for seizure or forfeiture
315 of assets under state law.

316 566.033 Personal use of marijuana.-

317 (1) A person who is 21 years of age or older may:

318 (a) Use, possess or transport marijuana accessories and up
319 to 2 1/2 ounces of marijuana.

320 (b) Transfer or furnish, without remuneration, up to 2 1/2
321 ounces of marijuana and up to 6 seedlings to a person who is 21
322 years of age or older.

323 (c) Possess, grow, cultivate, process or transport up to 6
324 marijuana plants, including seedlings, and possess the marijuana
325 produced by the marijuana plants on the premises where the
326 plants were grown.

327 (d) Purchase up to 2 1/2 ounces of marijuana, up to 6
328 seedlings, and marijuana accessories from a retail marijuana
329 store.

330 (2) The following apply to the cultivation of marijuana
331 for personal use by a person who is 21 years of age or older:

332 (a) A person may cultivate up to 6 marijuana plants,
333 including seedlings, at that person's place of residence, on
334 property owned by that person, or on another person's property
335 with permission of the owner of the other property.

336 (b) A person who elects to cultivate marijuana shall take
337 reasonable precautions to ensure the plants are secure from
338 unauthorized access or access by a person under 21 years of age.

339 Reasonable precautions include, but are not limited to,
 340 cultivating marijuana in a fully enclosed secure outdoor area,
 341 locked closet, or locked room inaccessible to persons under 21
 342 years of age.

343 (3) A person may smoke or ingest marijuana in a nonpublic
 344 place, including a private residence.

345 (a) This subsection does not permit a person to consume
 346 marijuana in a manner that endangers others.

347 (b) The prohibitions and limitations on smoking tobacco
 348 products in specified areas in part II of chapter 386 apply to
 349 marijuana.

350 (c) A person who smokes marijuana in a public place other
 351 than as governed by part II of chapter 386 commits a noncriminal
 352 violation subject to a civil penalty of \$100.

353 566.0311 False identification.-

354 (1) As used in this section, the term "minor" means a
 355 person who is under 21 years of age.

356 (2) A minor may not present or offer to a marijuana
 357 establishment or the marijuana establishment's agent or employee
 358 any written or oral evidence of age that is false, fraudulent,
 359 or not actually the minor's own for the purpose of:

360 (a) Ordering, purchasing, attempting to purchase or
 361 otherwise procuring or attempting to procure marijuana; or

362 (b) Gaining access to marijuana.

363 (3) (a) A minor who violates subsection (2) commits:

364 1. For a first offense, a noncriminal violation subject to

365 a civil penalty of at least \$200 and not more than \$400.

366 2. For a second offense, a noncriminal violation subject
367 to a civil penalty of at least \$300 and not more than \$600,
368 which may only be suspended as provided in paragraph (b).

369 3. For a third or subsequent offense, a noncriminal
370 violation subject to a civil penalty of \$600, which may only be
371 suspended as provided in paragraph (b).

372
373 When a minor is adjudged to have committed a first offense under
374 subsection (2), the judge shall inform that minor that the
375 noncriminal penalties for the second and subsequent offenses are
376 mandatory and may only be suspended as provided in paragraph
377 (b). Failure to inform the minor that subsequent noncriminal
378 penalties are mandatory is not a ground for suspension of any
379 subsequent civil penalty.

380 (b) A judge, as an alternative to or in addition to the
381 noncriminal penalties specified in paragraph (a), may assign the
382 minor to perform specified work for the benefit of the state,
383 the municipality, or other public entity or a charitable
384 institution for no more than 40 hours for each violation.

385 566.034 Marijuana establishments.—

386 (1) A marijuana establishment may engage in the
387 manufacture, possession, or purchase of marijuana, marijuana
388 products, and marijuana accessories and sell marijuana,
389 marijuana products, or marijuana accessories to a consumer as
390 described in this subsection.

- 391 (a) A retail marijuana store may:
- 392 1. Possess, display, or transport marijuana, marijuana
- 393 products, or marijuana accessories.
- 394 2. Purchase marijuana from a marijuana cultivation
- 395 facility.
- 396 3. Purchase marijuana or marijuana products from a
- 397 marijuana product manufacturing facility.
- 398 4. Sell marijuana, marijuana products, or marijuana
- 399 accessories to consumers.
- 400 (b) A marijuana cultivation facility may:
- 401 1. Cultivate, harvest, process, package, transport,
- 402 display, or possess marijuana.
- 403 2. Deliver or transfer marijuana to a marijuana testing
- 404 facility.
- 405 3. Sell marijuana to another marijuana cultivation
- 406 facility, a marijuana product manufacturing facility, or a
- 407 retail marijuana store.
- 408 4. Purchase marijuana from another marijuana cultivation
- 409 facility.
- 410 (c) A marijuana product manufacturing facility may:
- 411 1. Package, process, transport, manufacture, display, or
- 412 possess marijuana or marijuana products.
- 413 2. Deliver or transfer marijuana or marijuana products to
- 414 a marijuana testing facility.
- 415 3. Sell marijuana or marijuana products to a retail
- 416 marijuana store or marijuana product manufacturing facility.

417 4. Purchase marijuana from a marijuana cultivation
418 facility.

419 5. Purchase marijuana or marijuana products from a
420 marijuana product manufacturing facility.

421 (d) A marijuana testing facility may possess, cultivate,
422 process, repackage, store, transport, display, transfer, or
423 deliver marijuana or marijuana products.

424
425 A marijuana establishment may lease or otherwise allow the use
426 of property owned, occupied, or controlled by a person,
427 corporation, or other entity for any of the activities conducted
428 lawfully in accordance with this subsection.

429 (2) This section does not prevent the imposition of
430 penalties for violating this chapter or state or local rules
431 adopted pursuant to this chapter.

432 566.035 Duties of the division.—The division shall:

433 (1) Enforce the laws and rules relating to the
434 manufacturing, processing, labeling, storing, transporting,
435 testing, and selling of marijuana by marijuana establishments
436 and administer those laws relating to licensing and the
437 collection of taxes.

438 (2) Adopt rules consistent with this chapter for the
439 administration and enforcement of laws regulating and licensing
440 marijuana establishments.

441 (3) If determined necessary by the division, enter into a
442 memorandum of understanding with the Department of Law

443 Enforcement, a county sheriff, or other state or municipal law
 444 enforcement agency to perform inspections of marijuana
 445 establishments.

446 (4) Issue marijuana cultivation facility, marijuana
 447 testing facility, marijuana product manufacturing facility, and
 448 retail marijuana store licenses.

449 (5) Prevent the sale of marijuana by licensees to minors
 450 and intoxicated persons.

451 (6) Ensure that licensees have access to the provisions of
 452 this chapter and other laws and rules governing marijuana in
 453 accordance with this section.

454 (7) Post on the department's publicly accessible website
 455 this chapter and all rules adopted under this chapter. The
 456 division shall notify all licensees of changes in the law and
 457 rules through a publicly accessible website posting within 90
 458 days after adjournment of each session of the Legislature. The
 459 division shall update the posting on the department's publicly
 460 accessible website to reflect new laws and rules before the
 461 effective date of the laws and rules.

462 (8) Certify monthly to the Chief Financial Officer a
 463 complete statement of revenues and expenses for licenses issued
 464 and for revenues collected by the division and submit an annual
 465 report that includes a complete statement of the revenues and
 466 expenses for the division to the Governor, the Speaker of the
 467 House of Representatives, and the President of the Senate.

468 (9) Suspend or revoke the license of a licensee in

469 accordance with rules adopted by the division. A marijuana
470 establishment with a license that is suspended or revoked
471 pursuant to this subsection may:

472 (a) Continue to possess marijuana during the time its
473 license is suspended, but may not dispense, transfer, or sell
474 marijuana. If the marijuana establishment is a marijuana
475 cultivation facility, it may continue to cultivate marijuana
476 plants during the time its license is suspended. Marijuana may
477 not be removed from the licensed premises except as authorized
478 by the division and only for the purpose of destruction.

479 (b) Possess marijuana for up to 7 days after revocation of
480 its license, during which time the marijuana establishment shall
481 dispose of its inventory of marijuana in accordance with
482 division rules.

483 (10) Beginning January 15, 2016, and annually thereafter,
484 report to the committees of each house of the Legislature having
485 jurisdiction over marijuana regulation. The report must include,
486 but is not limited to, all rules adopted by the division and
487 statistics regarding the number of marijuana establishment
488 applications received, and licensed and the licensing fees
489 collected within the previous year.

490 566.036 Licensing of marijuana establishments.-

491 (1) An applicant for a marijuana establishment license
492 shall file an application in the form required by the division
493 for the type of marijuana establishment license sought, along
494 with the application fee, not to exceed \$5,000, as set by rule.

495 An applicant may apply for and be granted more than one type of
496 marijuana establishment license, except that a person licensed
497 as a marijuana testing facility may not hold another marijuana
498 establishment license. The division shall begin accepting and
499 processing applications by August 1, 2015.

500 (2) Upon receiving an application for a marijuana
501 establishment license, the division shall immediately forward a
502 copy of the application and 50 percent of the license
503 application fee to the locality in which the applicant desires
504 to operate.

505 (3) The division shall issue or renew a license to operate
506 a marijuana establishment to an applicant who meets the
507 requirements of the division as set forth in rule and in
508 subsection (9) within 90 days after the date of receipt of the
509 application unless:

510 (a) The division finds the applicant is not in compliance
511 with this section or rules adopted by the division;

512 (b) The division is notified by the relevant locality that
513 the applicant is not in compliance with an ordinance, rule, or
514 regulation in effect at the time of application; or

515 (c) The number of marijuana establishments allowed in the
516 locality has been limited pursuant to s. 566.037 or is limited
517 by subsection (5) and the division has already licensed the
518 maximum number of marijuana establishments allowed in the
519 locality for the category of license that is sought.

520 (4) The following shall control when more than one

521 application is received by the division for establishment of a
522 marijuana establishment in the same locality:

523 (a) If a greater number of applications are received from
524 qualified applicants to operate a marijuana establishment in a
525 locality than are allowed under the limits enacted by the
526 locality pursuant to s. 566.037 or pursuant to subsection (5),
527 the division shall solicit and consider input from the locality
528 regarding the locality's preference or preferences for
529 licensure. Within 90 days after the date that the first
530 application is received, the division shall issue the maximum
531 number of applicable licenses for each type of marijuana
532 establishment license application received.

533 (b) In a competitive application process to determine
534 which applicants will receive licenses for a marijuana
535 establishment, the division shall give preference to an
536 applicant who has at least 1 year of previous experience in
537 operating another business in this state in compliance with
538 state law.

539 (c) The division may not grant a license for a marijuana
540 establishment to a licensee who has already received a license
541 to operate the same type of marijuana establishment if doing so
542 would prevent another qualified applicant from receiving a
543 license.

544 (5) Unless the locality has prohibited retail marijuana
545 stores or has enacted a lower limit on the number of retail
546 marijuana stores, the division shall license no more than:

547 (a) One retail marijuana store per each 5,000 persons in a
548 locality with a population over 20,000.

549 (b) Two retail marijuana stores in a locality with a
550 population of at least 5,001 but less than 20,000.

551 (c) One retail marijuana store in a locality with a
552 population of at least 2,000 but less than 5,001.

553

554 The division may license one retail marijuana store in a
555 locality where the population is less than 2,000 if the
556 municipality or county commissioners for the locality has not
557 prohibited retail marijuana stores. The division may grant a
558 locality's request to allow additional marijuana stores. The
559 division may consider the impact of seasonal population or
560 tourism and other related information provided by the locality
561 requesting an additional marijuana establishment location.

562 (6) Upon denial of an application, the division shall
563 notify the applicant in writing of the specific reason for its
564 denial.

565 (7) All licenses under this part are valid for 1 year from
566 the date of issuance.

567 (8) A prospective licensee as a marijuana establishment:

568 (a) May not have been convicted of a disqualifying drug
569 offense. For purposes of this section, "disqualifying drug
570 offense" means a conviction for a violation of a state or
571 federal controlled substance law that is a crime punishable by
572 imprisonment for 1 year or more. It does not include an offense

573 for which the sentence, including any term of probation,
574 incarceration, or supervised release, was completed 10 or more
575 years before application for licensure or an offense that
576 consisted of conduct that would be permitted under this part.

577 (b) May not have had a previous license revoked for a
578 marijuana establishment.

579 (c) If the applicant is a corporation, may not be issued a
580 license if any of the principal officers of the corporation
581 would be personally ineligible under paragraph (a) or paragraph
582 (b).

583 (9) A marijuana establishment:

584 (a) May not be located within 500 feet of the property
585 line of a preexisting public or private school. The distance
586 must be measured from the main entrance of the marijuana
587 establishment to the main entrance of the school by the ordinary
588 course of travel.

589 (b) Shall implement appropriate security measures,
590 consistent with rules issued by the division, that are designed
591 to prevent:

592 1. Unauthorized entrance into areas containing marijuana.

593 2. The theft of marijuana located on the premises or in
594 transit to or from the premises by the licensee.

595 3. Tampering with or adulteration of the marijuana
596 products.

597 4. Unauthorized access to marijuana or marijuana
598 accessories.

599 5. Access to marijuana by or sales of marijuana to minors.

600 (c) Shall prepare and maintain documents that include
601 procedures for the oversight of all aspects of operations and
602 procedures to ensure accurate record keeping.

603 (d) Shall make available for inspection its license at the
604 premises to which that license applies. A licensee may not
605 refuse a representative of the division the right at any time to
606 inspect the entire licensed premises or to audit the books and
607 records of the licensee.

608 (e) May not sell marijuana to a person under 21 years of
609 age or to a visibly intoxicated person.

610 (f) If the licensee is a retail marijuana store, it may
611 not allow a minor to enter or remain on the premises unless the
612 minor is an employee of the division, a law enforcement officer,
613 emergency personnel, or a contractor performing work on the
614 facility that is not directly related to marijuana, such as
615 installing or maintaining security devices or performing
616 electrical wiring.

617 (g) May not sell marijuana between the hours of 1 a.m. and
618 6 a.m.

619 (h) May not employ as a manager or leave in charge of the
620 licensed premises any person who, by reason of conviction for a
621 disqualifying drug offense or because of a revocation of that
622 person's marijuana establishment license, is not eligible for a
623 marijuana establishment license.

624 (i) If a retail marijuana store, may not offer any free

625 merchandise, a rebate, or a gift to a consumer.

626 (j) If a retail marijuana store, may only sell or furnish
627 marijuana to a consumer from the premises licensed by the
628 department. A retail marijuana store may not, either directly or
629 indirectly, by any agent or employee, travel from locality to
630 locality, or from place to place within the same locality,
631 selling, bartering, carrying for sale, or exposing for sale
632 marijuana from a vehicle.

633 (10) A person who intentionally provides false information
634 on an application for a marijuana establishment license violates
635 s. 837.06.

636 (11) When a licensee's license expires:

637 (a) A licensee who unintentionally fails to renew a
638 license upon its expiration date and continues to engage in
639 activities allowed by s. 566.034 may not be charged with illegal
640 sales for a period of 7 days after the expiration date. A
641 licensee who continues to make sales of marijuana after having
642 been properly notified of the expired license may be charged
643 with illegally selling marijuana.

644 (b) At least 30 days before expiration of a licensee's
645 license issued pursuant to this part, the division shall notify
646 the licensee by the most expedient means available:

- 647 1. That the licensee's license is scheduled to expire.
648 2. The date of expiration.
649 3. That all sales of marijuana must be suspended after the
650 date of expiration and remain suspended until the license is

651 properly renewed.

652

653 Failure by the division to notify a licensee pursuant to this
654 paragraph does not excuse a licensee from being charged with a
655 violation of this part.

656 566.037 Local control.-

657 (1) A locality may prohibit the operation of one or more
658 types of marijuana establishments through the enactment of an
659 ordinance.

660 (2) If a locality does not prohibit the operation of a
661 marijuana establishment pursuant to subsection (1), the
662 following apply:

663 (a) No later than September 1, 2015, a locality may enact
664 an ordinance or regulation specifying the entity within the
665 locality that is responsible for processing applications
666 submitted for a licensee to operate a marijuana establishment
667 within the boundaries of the locality. The locality may provide
668 that the entity may issue such licenses if issuance by the
669 locality becomes necessary because of a failure by the division
670 to adopt rules pursuant to s. 566.035 or because of a failure by
671 the division to process and issue licenses as required by s.
672 566.036.

673 (b) A locality may enact ordinances, rules, or regulations
674 pursuant to this paragraph as long as those ordinances, rules,
675 or regulations do not conflict with this section or with rules
676 issued pursuant to s. 566.035. The ordinances may:

677 1. Govern the time, place, and manner of operations and
678 number of marijuana establishments.

679 2. Establish procedures for the issuance, suspension, and
680 revocation of a license issued by the locality in accordance
681 with paragraph (c) or paragraph (d).

682 3. Establish a schedule of annual operating, licensing,
683 and application fees for a marijuana establishment. This
684 subparagraph applies only if the application fee or licensing
685 fee is submitted to a locality in accordance with paragraph (c)
686 or (d).

687 4. Establish noncriminal penalties for violation of an
688 ordinance, rule, or regulation governing the time, place, and
689 manner that a marijuana establishment may operate in that
690 locality.

691 (c) If the division does not begin issuing licenses by
692 January 1, 2016, an applicant may submit an application directly
693 to the locality in which it wants to operate. A locality that
694 receives an application pursuant to this paragraph shall issue a
695 license to an applicant within 90 days after receipt of the
696 application unless the locality finds, and notifies the
697 applicant, that the applicant is not in compliance with an
698 ordinance, rule, or regulation made pursuant to s. 566.035 or
699 paragraph (b) in effect at the time of application. The locality
700 shall notify the division if the locality issues an annual
701 license to the applicant.

702 (d) If the division does not issue a license to an

703 applicant within 90 days after receipt of the application filed
704 in accordance with s. 566.036 and does not notify the applicant
705 of the specific reason for denial, in writing and within 90 days
706 after receipt of the application, the applicant may resubmit its
707 application directly to the locality and the locality may issue
708 an annual license to the applicant. A locality issuing a license
709 to an applicant shall do so within 90 days after receipt of the
710 resubmitted application unless the locality finds, and notifies
711 the applicant, that the applicant is not in compliance with an
712 ordinance, rule or regulation made pursuant to s. 566.035 or
713 paragraph (b) in effect at the time the application is
714 resubmitted. The locality shall notify the division if the
715 locality issues an annual license to the applicant. If an
716 application is submitted to a locality under this paragraph, the
717 division shall forward to the locality the application fee paid
718 by the applicant to the division upon request by the locality.

719 (e) A license issued by a locality in accordance with
720 paragraph (c) or paragraph (d) has the same effect as a license
721 issued by the division in accordance with s. 566.036 and the
722 holder of that license is not subject to regulation or
723 enforcement by the division during the term of that license. A
724 subsequent or renewed license may be issued under this paragraph
725 on an annual basis if the division has not adopted rules
726 required by s. 566.035 at least 90 days before the date upon
727 which such subsequent or renewed license would be effective, or
728 if the division has adopted rules pursuant to 566.041 but has

729 not, at least 90 days after the adoption of those rules, issued
730 any marijuana establishment licenses pursuant to s. 566.036.

731 566.038 Defense of state law.—The Attorney General shall
732 to the best of the abilities of the office and in good faith
733 advocate to quash any federal subpoena for records involving
734 marijuana establishments.

735 566.039 Research.—Notwithstanding the provisions of this
736 part regulating the distribution of marijuana, a scientific or
737 medical researcher who has previously published peer-reviewed
738 research may purchase, possess, and securely store marijuana for
739 purposes of conducting research. A scientific or medical
740 researcher may administer and distribute marijuana to a
741 participant in research who is at least 21 years of age after
742 receiving informed consent from that participant.

743 566.040 Construction.—

744 (1) EMPLOYMENT POLICIES.—This chapter does not require an
745 employer to permit or accommodate the use, consumption,
746 possession, transfer, display, transportation, sale, or growing
747 of marijuana in the workplace or to affect the ability of
748 employers to have policies restricting the use of marijuana by
749 their employees.

750 (2) OPERATING UNDER THE INFLUENCE.—This chapter does not
751 exempt a person from the laws prohibiting operating under the
752 influence under chapter 316 or chapter 327.

753 (3) TRANSFER TO MINOR.—This chapter does not permit the
754 transfer of marijuana, with or without remuneration, to a minor

755 or to allow a minor to purchase, possess, use, transport, grow,
756 or consume marijuana.

757 (4) RESTRICTION ON USE OF PROPERTY.—This chapter does not
758 prohibit a person, employer, school, hospital, detention
759 facility, corporation, or other entity that occupies, owns, or
760 controls real property from prohibiting or otherwise regulating
761 the possession, consumption, use, display, transfer,
762 distribution, sale, transportation, or growing of marijuana on
763 or in that real property.

764 566.041 Rulemaking.—The division shall adopt any rules
765 necessary to administer and enforce the provisions of this
766 chapter.

767 566.042 Good moral character.—Engaging in conduct allowed
768 by this chapter may not be the basis for a finding of a lack of
769 good moral character as that term is used in the Florida
770 Statutes.

771 Section 5. Section 566.037, Florida Statutes, as created by
772 this act, which relates to local control, shall take effect upon
773 this act becoming a law.

774 Section 6. Rulemaking.—This section shall take effect upon
775 this act becoming a law.

776 (1) By June 1, 2015, the Division of Alcoholic Beverages,
777 Marijuana, and Tobacco of the Department of Business and
778 Professional Regulation shall adopt emergency rules for the
779 administration and the enforcement of laws regulating and
780 licensing marijuana establishments pursuant to part II of

781 chapter 566, Florida Statutes, as created by this act. These
782 rules must be developed by the division and may not be
783 contracted out to an entity outside the division. These rules
784 may not prohibit the operation of marijuana establishments,
785 either expressly or through restrictions that make the operation
786 of marijuana establishments unreasonably impracticable. As used
787 in this section, "unreasonably impracticable" means that the
788 measures necessary to comply with the rules require such a high
789 investment of risk, money, time, or other resource or asset that
790 the operation of a marijuana establishment is not worthy of
791 being carried out in practice by a reasonably prudent
792 businessperson.

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

794 (a) Provisions for administering and enforcing part II of
795 chapter 566, Florida Statutes, including oversight requirements
796 and noncriminal penalties for violations.

797 (b) The form and content of applications for each type of
798 marijuana establishment license, registration renewal forms, and
799 associated licensing and renewal fee schedules, except that an
800 application, licensing, or renewal fee may not exceed \$5,000.

801 (c) Procedures allowing an applicant who has been denied a
802 license due to failure to meet the requirements for licensing to
803 correct the reason for failure.

804 (d) Procedures and timelines for background checks and
805 appeals.

806 (e) Rules governing the transfer of a license, which must

807 be substantially the same as rules governing the transfer of a
808 beverage license under chapter 561, Florida Statutes.

809 (f) Minimum standards for employment, including
810 requirements for background checks, restrictions against hiring
811 persons under 21 years of age, and safeguards to protect against
812 unauthorized employee access to marijuana.

813 (g) Minimum recordkeeping requirements, including the
814 recording of the disposal of marijuana that is not sold. Rules
815 developed pursuant to this subsection may not require a consumer
816 to provide a retail marijuana store with personal information
817 other than government-issued identification to determine the
818 consumer's age or require the retail marijuana store to acquire
819 and record personal information about its consumers.

820 (h) Health and safety rules and standards for the
821 manufacture of marijuana products and the cultivation of
822 marijuana.

823 (i) Labeling requirements for marijuana and marijuana
824 products sold or distributed by a marijuana establishment.

825 (j) Restrictions on the advertising, signage, and display
826 of marijuana and marijuana products.

827 (k) Minimum security requirements, including standards to
828 reasonably protect against unauthorized access to marijuana at
829 all stages of the licensee's possession, transportation,
830 storage, and cultivation of marijuana; these security
831 requirements may not prohibit outdoor cultivation in an
832 enclosed, secured space.

833 (1) Procedures for enforcing s. 566.034(9) and (10),
834 Florida Statutes, including noncriminal penalties for
835 violations, procedures for suspending or terminating the license
836 of a licensee who violates licensing provisions or the rules
837 adopted pursuant to this section, and procedures for appeals of
838 penalties or licensing actions.

839 (m) Any other oversight requirements that the division
840 determines are necessary to administer the laws relating to
841 licensing marijuana establishments.

842 (3) Rules adopted pursuant to this section may not
843 prohibit a locality, as defined in s. 566.031, Florida Statutes,
844 from limiting the number of each type of licensee who may
845 operate in the locality or from enacting reasonable regulations
846 applicable to licensees.

847 Section 7. Paragraph (p) of subsection (1) of section
848 500.03, Florida Statutes, is amended to read:

849 500.03 Definitions; construction; applicability.—

850 (1) For the purpose of this chapter, the term:

851 (p) "Food establishment" means any factory, food outlet,
852 or any other facility manufacturing, processing, packing,
853 holding, or preparing food or selling food at wholesale or
854 retail. The term does not include any business or activity that
855 is regulated under s. 500.80, chapter 509, or chapter 601. The
856 term includes a retail marijuana store that sells food
857 containing marijuana pursuant to chapter 566. The term includes
858 tomato packinghouses and repackers but does not include any

859 other establishments that pack fruits and vegetables in their
860 raw or natural states, including those fruits or vegetables that
861 are washed, colored, or otherwise treated in their unpeeled,
862 natural form before they are marketed.

863 Section 8. Section 500.105, Florida Statutes, is created
864 to read:

865 500.105 Retail marijuana store food products containing
866 marijuana.—Food products containing marijuana that are prepared
867 in a food establishment that holds a permit under s. 500.12, if
868 required, and that are sold by a retail marijuana store licensed
869 under chapter 566 are not considered adulterated under this
870 chapter due to the presence of marijuana.

871 Section 9. Subsection (1) of section 562.13, Florida
872 Statutes, is amended to read:

873 562.13 Employment of minors or certain other persons by
874 certain vendors prohibited; exceptions.—

875 (1) Unless otherwise provided in this section, it is
876 unlawful for any vendor licensed under the Beverage Law or a
877 licensee under chapter 566 to employ any person under 18 years
878 of age.

879 Section 10. Subsection (1) of section 569.0073, Florida
880 Statutes, is amended to read:

881 569.0073 Special provisions; smoking pipes and smoking
882 devices.—

883 (1) It is unlawful for any person to offer for sale at
884 retail any of the items listed in subsection (2) unless such

885 person:

886 (a) Has a retail tobacco products dealer permit under s.
 887 569.003 or is a marijuana establishment licensed under s.
 888 566.036. The provisions of this chapter apply to any person that
 889 offers for retail sale any of the items listed in subsection
 890 (2); and

891 (b)1. Derives at least 75 percent of its annual gross
 892 revenues from the retail sale of cigarettes, cigars, and other
 893 tobacco products or marijuana products sold in compliance with
 894 chapter 566; or

895 2. Derives no more than 25 percent of its annual gross
 896 revenues from the retail sale of the items listed in subsection
 897 (2).

898 Section 11. Subsection (11) is added to section 893.13,
 899 Florida Statutes, to read:

900 893.13 Prohibited acts; penalties.—

901 (11) Subsections (1)-(8) are not applicable to conduct
 902 authorized under chapter 566.

903 Section 12. Subsection (1) of section 893.135, Florida
 904 Statutes, is amended to read:

905 893.135 Trafficking; mandatory sentences; suspension or
 906 reduction of sentences; conspiracy to engage in trafficking.—

907 (1) Except as authorized in this chapter, ~~or in~~ chapter
 908 499, or chapter 566 and notwithstanding ~~the provisions of~~ s.
 909 893.13:

910 (a) Any person who knowingly sells, purchases,

911 manufactures, delivers, or brings into this state, or who is
912 knowingly in actual or constructive possession of, in excess of
913 25 pounds of cannabis, or 300 or more cannabis plants, commits a
914 felony of the first degree, which felony shall be known as
915 "trafficking in cannabis," punishable as provided in s. 775.082,
916 s. 775.083, or s. 775.084. If the quantity of cannabis involved:

917 1. Is in excess of 25 pounds, but less than 2,000 pounds,
918 or is 300 or more cannabis plants, but not more than 2,000
919 cannabis plants, such person shall be sentenced to a mandatory
920 minimum term of imprisonment of 3 years, and the defendant shall
921 be ordered to pay a fine of \$25,000.

922 2. Is 2,000 pounds or more, but less than 10,000 pounds,
923 or is 2,000 or more cannabis plants, but not more than 10,000
924 cannabis plants, such person shall be sentenced to a mandatory
925 minimum term of imprisonment of 7 years, and the defendant shall
926 be ordered to pay a fine of \$50,000.

927 3. Is 10,000 pounds or more, or is 10,000 or more cannabis
928 plants, such person shall be sentenced to a mandatory minimum
929 term of imprisonment of 15 calendar years and pay a fine of
930 \$200,000.

931
932 For the purpose of this paragraph, a plant, including, but not
933 limited to, a seedling or cutting, is a "cannabis plant" if it
934 has some readily observable evidence of root formation, such as
935 root hairs. To determine if a piece or part of a cannabis plant
936 severed from the cannabis plant is itself a cannabis plant, the

937 severed piece or part must have some readily observable evidence
938 of root formation, such as root hairs. Callous tissue is not
939 readily observable evidence of root formation. The viability and
940 sex of a plant and the fact that the plant may or may not be a
941 dead harvested plant are not relevant in determining if the
942 plant is a "cannabis plant" or in the charging of an offense
943 under this paragraph. Upon conviction, the court shall impose
944 the longest term of imprisonment provided for in this paragraph.

945 (b)1. Any person who knowingly sells, purchases,
946 manufactures, delivers, or brings into this state, or who is
947 knowingly in actual or constructive possession of, 28 grams or
948 more of cocaine, as described in s. 893.03(2)(a)4., or of any
949 mixture containing cocaine, but less than 150 kilograms of
950 cocaine or any such mixture, commits a felony of the first
951 degree, which felony shall be known as "trafficking in cocaine,"
952 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
953 If the quantity involved:

954 a. Is 28 grams or more, but less than 200 grams, such
955 person shall be sentenced to a mandatory minimum term of
956 imprisonment of 3 years, and the defendant shall be ordered to
957 pay a fine of \$50,000.

958 b. Is 200 grams or more, but less than 400 grams, such
959 person shall be sentenced to a mandatory minimum term of
960 imprisonment of 7 years, and the defendant shall be ordered to
961 pay a fine of \$100,000.

962 c. Is 400 grams or more, but less than 150 kilograms, such

963 person shall be sentenced to a mandatory minimum term of
964 imprisonment of 15 calendar years and pay a fine of \$250,000.

965 2. Any person who knowingly sells, purchases,
966 manufactures, delivers, or brings into this state, or who is
967 knowingly in actual or constructive possession of, 150 kilograms
968 or more of cocaine, as described in s. 893.03(2)(a)4., commits
969 the first degree felony of trafficking in cocaine. A person who
970 has been convicted of the first degree felony of trafficking in
971 cocaine under this subparagraph shall be punished by life
972 imprisonment and is ineligible for any form of discretionary
973 early release except pardon or executive clemency or conditional
974 medical release under s. 947.149. However, if the court
975 determines that, in addition to committing any act specified in
976 this paragraph:

977 a. The person intentionally killed an individual or
978 counseled, commanded, induced, procured, or caused the
979 intentional killing of an individual and such killing was the
980 result; or

981 b. The person's conduct in committing that act led to a
982 natural, though not inevitable, lethal result,

983
984 such person commits the capital felony of trafficking in
985 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
986 person sentenced for a capital felony under this paragraph shall
987 also be sentenced to pay the maximum fine provided under
988 subparagraph 1.

989 3. Any person who knowingly brings into this state 300
990 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
991 and who knows that the probable result of such importation would
992 be the death of any person, commits capital importation of
993 cocaine, a capital felony punishable as provided in ss. 775.082
994 and 921.142. Any person sentenced for a capital felony under
995 this paragraph shall also be sentenced to pay the maximum fine
996 provided under subparagraph 1.

997 (c)1. Any person who knowingly sells, purchases,
998 manufactures, delivers, or brings into this state, or who is
999 knowingly in actual or constructive possession of, 4 grams or
1000 more of any morphine, opium, oxycodone, hydrocodone,
1001 hydromorphone, or any salt, derivative, isomer, or salt of an
1002 isomer thereof, including heroin, as described in s.
1003 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
1004 of any mixture containing any such substance, but less than 30
1005 kilograms of such substance or mixture, commits a felony of the
1006 first degree, which felony shall be known as "trafficking in
1007 illegal drugs," punishable as provided in s. 775.082, s.
1008 775.083, or s. 775.084. If the quantity involved:

1009 a. Is 4 grams or more, but less than 14 grams, such person
1010 shall be sentenced to a mandatory minimum term of imprisonment
1011 of 3 years, and the defendant shall be ordered to pay a fine of
1012 \$50,000.

1013 b. Is 14 grams or more, but less than 28 grams, such
1014 person shall be sentenced to a mandatory minimum term of

1015 imprisonment of 15 years, and the defendant shall be ordered to
 1016 pay a fine of \$100,000.

1017 c. Is 28 grams or more, but less than 30 kilograms, such
 1018 person shall be sentenced to a mandatory minimum term of
 1019 imprisonment of 25 calendar years and pay a fine of \$500,000.

1020 2. Any person who knowingly sells, purchases,
 1021 manufactures, delivers, or brings into this state, or who is
 1022 knowingly in actual or constructive possession of, 30 kilograms
 1023 or more of any morphine, opium, oxycodone, hydrocodone,
 1024 hydromorphone, or any salt, derivative, isomer, or salt of an
 1025 isomer thereof, including heroin, as described in s.
 1026 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
 1027 more of any mixture containing any such substance, commits the
 1028 first degree felony of trafficking in illegal drugs. A person
 1029 who has been convicted of the first degree felony of trafficking
 1030 in illegal drugs under this subparagraph shall be punished by
 1031 life imprisonment and is ineligible for any form of
 1032 discretionary early release except pardon or executive clemency
 1033 or conditional medical release under s. 947.149. However, if the
 1034 court determines that, in addition to committing any act
 1035 specified in this paragraph:

1036 a. The person intentionally killed an individual or
 1037 counseled, commanded, induced, procured, or caused the
 1038 intentional killing of an individual and such killing was the
 1039 result; or

1040 b. The person's conduct in committing that act led to a

1041 natural, though not inevitable, lethal result,
 1042
 1043 such person commits the capital felony of trafficking in illegal
 1044 drugs, punishable as provided in ss. 775.082 and 921.142. Any
 1045 person sentenced for a capital felony under this paragraph shall
 1046 also be sentenced to pay the maximum fine provided under
 1047 subparagraph 1.

1048 3. Any person who knowingly brings into this state 60
 1049 kilograms or more of any morphine, opium, oxycodone,
 1050 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
 1051 salt of an isomer thereof, including heroin, as described in s.
 1052 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
 1053 more of any mixture containing any such substance, and who knows
 1054 that the probable result of such importation would be the death
 1055 of any person, commits capital importation of illegal drugs, a
 1056 capital felony punishable as provided in ss. 775.082 and
 1057 921.142. Any person sentenced for a capital felony under this
 1058 paragraph shall also be sentenced to pay the maximum fine
 1059 provided under subparagraph 1.

1060 (d)1. Any person who knowingly sells, purchases,
 1061 manufactures, delivers, or brings into this state, or who is
 1062 knowingly in actual or constructive possession of, 28 grams or
 1063 more of phencyclidine or of any mixture containing
 1064 phencyclidine, as described in s. 893.03(2)(b), commits a felony
 1065 of the first degree, which felony shall be known as "trafficking
 1066 in phencyclidine," punishable as provided in s. 775.082, s.

1067 775.083, or s. 775.084. If the quantity involved:

1068 a. Is 28 grams or more, but less than 200 grams, such

1069 person shall be sentenced to a mandatory minimum term of

1070 imprisonment of 3 years, and the defendant shall be ordered to

1071 pay a fine of \$50,000.

1072 b. Is 200 grams or more, but less than 400 grams, such

1073 person shall be sentenced to a mandatory minimum term of

1074 imprisonment of 7 years, and the defendant shall be ordered to

1075 pay a fine of \$100,000.

1076 c. Is 400 grams or more, such person shall be sentenced to

1077 a mandatory minimum term of imprisonment of 15 calendar years

1078 and pay a fine of \$250,000.

1079 2. Any person who knowingly brings into this state 800

1080 grams or more of phencyclidine or of any mixture containing

1081 phencyclidine, as described in s. 893.03(2)(b), and who knows

1082 that the probable result of such importation would be the death

1083 of any person commits capital importation of phencyclidine, a

1084 capital felony punishable as provided in ss. 775.082 and

1085 921.142. Any person sentenced for a capital felony under this

1086 paragraph shall also be sentenced to pay the maximum fine

1087 provided under subparagraph 1.

1088 (e)1. Any person who knowingly sells, purchases,

1089 manufactures, delivers, or brings into this state, or who is

1090 knowingly in actual or constructive possession of, 200 grams or

1091 more of methaqualone or of any mixture containing methaqualone,

1092 as described in s. 893.03(1)(d), commits a felony of the first

1093 degree, which felony shall be known as "trafficking in
 1094 methaqualone," punishable as provided in s. 775.082, s. 775.083,
 1095 or s. 775.084. If the quantity involved:

1096 a. Is 200 grams or more, but less than 5 kilograms, such
 1097 person shall be sentenced to a mandatory minimum term of
 1098 imprisonment of 3 years, and the defendant shall be ordered to
 1099 pay a fine of \$50,000.

1100 b. Is 5 kilograms or more, but less than 25 kilograms,
 1101 such person shall be sentenced to a mandatory minimum term of
 1102 imprisonment of 7 years, and the defendant shall be ordered to
 1103 pay a fine of \$100,000.

1104 c. Is 25 kilograms or more, such person shall be sentenced
 1105 to a mandatory minimum term of imprisonment of 15 calendar years
 1106 and pay a fine of \$250,000.

1107 2. Any person who knowingly brings into this state 50
 1108 kilograms or more of methaqualone or of any mixture containing
 1109 methaqualone, as described in s. 893.03(1)(d), and who knows
 1110 that the probable result of such importation would be the death
 1111 of any person commits capital importation of methaqualone, a
 1112 capital felony punishable as provided in ss. 775.082 and
 1113 921.142. Any person sentenced for a capital felony under this
 1114 paragraph shall also be sentenced to pay the maximum fine
 1115 provided under subparagraph 1.

1116 (f)1. Any person who knowingly sells, purchases,
 1117 manufactures, delivers, or brings into this state, or who is
 1118 knowingly in actual or constructive possession of, 14 grams or

HB 1039

2014

1119 more of amphetamine, as described in s. 893.03(2)(c)2., or
1120 methamphetamine, as described in s. 893.03(2)(c)4., or of any
1121 mixture containing amphetamine or methamphetamine, or
1122 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
1123 in conjunction with other chemicals and equipment utilized in
1124 the manufacture of amphetamine or methamphetamine, commits a
1125 felony of the first degree, which felony shall be known as
1126 "trafficking in amphetamine," punishable as provided in s.
1127 775.082, s. 775.083, or s. 775.084. If the quantity involved:

1128 a. Is 14 grams or more, but less than 28 grams, such
1129 person shall be sentenced to a mandatory minimum term of
1130 imprisonment of 3 years, and the defendant shall be ordered to
1131 pay a fine of \$50,000.

1132 b. Is 28 grams or more, but less than 200 grams, such
1133 person shall be sentenced to a mandatory minimum term of
1134 imprisonment of 7 years, and the defendant shall be ordered to
1135 pay a fine of \$100,000.

1136 c. Is 200 grams or more, such person shall be sentenced to
1137 a mandatory minimum term of imprisonment of 15 calendar years
1138 and pay a fine of \$250,000.

1139 2. Any person who knowingly manufactures or brings into
1140 this state 400 grams or more of amphetamine, as described in s.
1141 893.03(2)(c)2., or methamphetamine, as described in s.
1142 893.03(2)(c)4., or of any mixture containing amphetamine or
1143 methamphetamine, or phenylacetone, phenylacetic acid,
1144 pseudoephedrine, or ephedrine in conjunction with other

1145 chemicals and equipment used in the manufacture of amphetamine
1146 or methamphetamine, and who knows that the probable result of
1147 such manufacture or importation would be the death of any person
1148 commits capital manufacture or importation of amphetamine, a
1149 capital felony punishable as provided in ss. 775.082 and
1150 921.142. Any person sentenced for a capital felony under this
1151 paragraph shall also be sentenced to pay the maximum fine
1152 provided under subparagraph 1.

1153 (g)1. Any person who knowingly sells, purchases,
1154 manufactures, delivers, or brings into this state, or who is
1155 knowingly in actual or constructive possession of, 4 grams or
1156 more of flunitrazepam or any mixture containing flunitrazepam as
1157 described in s. 893.03(1)(a) commits a felony of the first
1158 degree, which felony shall be known as "trafficking in
1159 flunitrazepam," punishable as provided in s. 775.082, s.
1160 775.083, or s. 775.084. If the quantity involved:

1161 a. Is 4 grams or more but less than 14 grams, such person
1162 shall be sentenced to a mandatory minimum term of imprisonment
1163 of 3 years, and the defendant shall be ordered to pay a fine of
1164 \$50,000.

1165 b. Is 14 grams or more but less than 28 grams, such person
1166 shall be sentenced to a mandatory minimum term of imprisonment
1167 of 7 years, and the defendant shall be ordered to pay a fine of
1168 \$100,000.

1169 c. Is 28 grams or more but less than 30 kilograms, such
1170 person shall be sentenced to a mandatory minimum term of

HB 1039

2014

1171 imprisonment of 25 calendar years and pay a fine of \$500,000.

1172 2. Any person who knowingly sells, purchases,
1173 manufactures, delivers, or brings into this state or who is
1174 knowingly in actual or constructive possession of 30 kilograms
1175 or more of flunitrazepam or any mixture containing flunitrazepam
1176 as described in s. 893.03(1)(a) commits the first degree felony
1177 of trafficking in flunitrazepam. A person who has been convicted
1178 of the first degree felony of trafficking in flunitrazepam under
1179 this subparagraph shall be punished by life imprisonment and is
1180 ineligible for any form of discretionary early release except
1181 pardon or executive clemency or conditional medical release
1182 under s. 947.149. However, if the court determines that, in
1183 addition to committing any act specified in this paragraph:

1184 a. The person intentionally killed an individual or
1185 counseled, commanded, induced, procured, or caused the
1186 intentional killing of an individual and such killing was the
1187 result; or

1188 b. The person's conduct in committing that act led to a
1189 natural, though not inevitable, lethal result,

1190
1191 such person commits the capital felony of trafficking in
1192 flunitrazepam, punishable as provided in ss. 775.082 and
1193 921.142. Any person sentenced for a capital felony under this
1194 paragraph shall also be sentenced to pay the maximum fine
1195 provided under subparagraph 1.

1196 (h)1. Any person who knowingly sells, purchases,

1197 manufactures, delivers, or brings into this state, or who is
 1198 knowingly in actual or constructive possession of, 1 kilogram or
 1199 more of gamma-hydroxybutyric acid (GHB), as described in s.
 1200 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
 1201 acid (GHB), commits a felony of the first degree, which felony
 1202 shall be known as "trafficking in gamma-hydroxybutyric acid
 1203 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
 1204 775.084. If the quantity involved:

1205 a. Is 1 kilogram or more but less than 5 kilograms, such
 1206 person shall be sentenced to a mandatory minimum term of
 1207 imprisonment of 3 years, and the defendant shall be ordered to
 1208 pay a fine of \$50,000.

1209 b. Is 5 kilograms or more but less than 10 kilograms, such
 1210 person shall be sentenced to a mandatory minimum term of
 1211 imprisonment of 7 years, and the defendant shall be ordered to
 1212 pay a fine of \$100,000.

1213 c. Is 10 kilograms or more, such person shall be sentenced
 1214 to a mandatory minimum term of imprisonment of 15 calendar years
 1215 and pay a fine of \$250,000.

1216 2. Any person who knowingly manufactures or brings into
 1217 this state 150 kilograms or more of gamma-hydroxybutyric acid
 1218 (GHB), as described in s. 893.03(1)(d), or any mixture
 1219 containing gamma-hydroxybutyric acid (GHB), and who knows that
 1220 the probable result of such manufacture or importation would be
 1221 the death of any person commits capital manufacture or
 1222 importation of gamma-hydroxybutyric acid (GHB), a capital felony

1223 punishable as provided in ss. 775.082 and 921.142. Any person
1224 sentenced for a capital felony under this paragraph shall also
1225 be sentenced to pay the maximum fine provided under subparagraph
1226 1.

1227 (i)1. Any person who knowingly sells, purchases,
1228 manufactures, delivers, or brings into this state, or who is
1229 knowingly in actual or constructive possession of, 1 kilogram or
1230 more of gamma-butyrolactone (GBL), as described in s.
1231 893.03(1)(d), or any mixture containing gamma-butyrolactone
1232 (GBL), commits a felony of the first degree, which felony shall
1233 be known as "trafficking in gamma-butyrolactone (GBL),"
1234 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1235 If the quantity involved:

1236 a. Is 1 kilogram or more but less than 5 kilograms, such
1237 person shall be sentenced to a mandatory minimum term of
1238 imprisonment of 3 years, and the defendant shall be ordered to
1239 pay a fine of \$50,000.

1240 b. Is 5 kilograms or more but less than 10 kilograms, such
1241 person shall be sentenced to a mandatory minimum term of
1242 imprisonment of 7 years, and the defendant shall be ordered to
1243 pay a fine of \$100,000.

1244 c. Is 10 kilograms or more, such person shall be sentenced
1245 to a mandatory minimum term of imprisonment of 15 calendar years
1246 and pay a fine of \$250,000.

1247 2. Any person who knowingly manufactures or brings into
1248 the state 150 kilograms or more of gamma-butyrolactone (GBL), as

1249 described in s. 893.03(1)(d), or any mixture containing gamma-
 1250 butyrolactone (GBL), and who knows that the probable result of
 1251 such manufacture or importation would be the death of any person
 1252 commits capital manufacture or importation of gamma-
 1253 butyrolactone (GBL), a capital felony punishable as provided in
 1254 ss. 775.082 and 921.142. Any person sentenced for a capital
 1255 felony under this paragraph shall also be sentenced to pay the
 1256 maximum fine provided under subparagraph 1.

1257 (j)1. Any person who knowingly sells, purchases,
 1258 manufactures, delivers, or brings into this state, or who is
 1259 knowingly in actual or constructive possession of, 1 kilogram or
 1260 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
 1261 any mixture containing 1,4-Butanediol, commits a felony of the
 1262 first degree, which felony shall be known as "trafficking in
 1263 1,4-Butanediol," punishable as provided in s. 775.082, s.
 1264 775.083, or s. 775.084. If the quantity involved:

1265 a. Is 1 kilogram or more, but less than 5 kilograms, such
 1266 person shall be sentenced to a mandatory minimum term of
 1267 imprisonment of 3 years, and the defendant shall be ordered to
 1268 pay a fine of \$50,000.

1269 b. Is 5 kilograms or more, but less than 10 kilograms,
 1270 such person shall be sentenced to a mandatory minimum term of
 1271 imprisonment of 7 years, and the defendant shall be ordered to
 1272 pay a fine of \$100,000.

1273 c. Is 10 kilograms or more, such person shall be sentenced
 1274 to a mandatory minimum term of imprisonment of 15 calendar years

1275 and pay a fine of \$500,000.

1276 2. Any person who knowingly manufactures or brings into
 1277 this state 150 kilograms or more of 1,4-Butanediol as described
 1278 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
 1279 and who knows that the probable result of such manufacture or
 1280 importation would be the death of any person commits capital
 1281 manufacture or importation of 1,4-Butanediol, a capital felony
 1282 punishable as provided in ss. 775.082 and 921.142. Any person
 1283 sentenced for a capital felony under this paragraph shall also
 1284 be sentenced to pay the maximum fine provided under subparagraph
 1285 1.

1286 (k)1. Any person who knowingly sells, purchases,
 1287 manufactures, delivers, or brings into this state, or who is
 1288 knowingly in actual or constructive possession of, 10 grams or
 1289 more of any of the following substances described in s.
 1290 893.03(1)(c):

- 1291 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 1292 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 1293 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 1294 d. 2,5-Dimethoxyamphetamine;
- 1295 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 1296 f. N-ethylamphetamine;
- 1297 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 1298 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 1299 i. 4-methoxyamphetamine;
- 1300 j. 4-methoxymethamphetamine;

1301 k. 4-Methyl-2,5-dimethoxyamphetamine;
 1302 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 1303 m. 3,4-Methylenedioxyamphetamine;
 1304 n. N,N-dimethylamphetamine; or
 1305 o. 3,4,5-Trimethoxyamphetamine,
 1306
 1307 individually or in any combination of or any mixture containing
 1308 any substance listed in sub-subparagraphs a.-o., commits a
 1309 felony of the first degree, which felony shall be known as
 1310 "trafficking in Phenethylamines," punishable as provided in s.
 1311 775.082, s. 775.083, or s. 775.084.
 1312 2. If the quantity involved:
 1313 a. Is 10 grams or more but less than 200 grams, such
 1314 person shall be sentenced to a mandatory minimum term of
 1315 imprisonment of 3 years, and the defendant shall be ordered to
 1316 pay a fine of \$50,000.
 1317 b. Is 200 grams or more, but less than 400 grams, such
 1318 person shall be sentenced to a mandatory minimum term of
 1319 imprisonment of 7 years, and the defendant shall be ordered to
 1320 pay a fine of \$100,000.
 1321 c. Is 400 grams or more, such person shall be sentenced to
 1322 a mandatory minimum term of imprisonment of 15 calendar years
 1323 and pay a fine of \$250,000.
 1324 3. Any person who knowingly manufactures or brings into
 1325 this state 30 kilograms or more of any of the following
 1326 substances described in s. 893.03(1)(c):

- 1327 a. 3,4-Methylenedioxyamphetamine (MDMA);
- 1328 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 1329 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 1330 d. 2,5-Dimethoxyamphetamine;
- 1331 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 1332 f. N-ethylamphetamine;
- 1333 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 1334 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 1335 i. 4-methoxyamphetamine;
- 1336 j. 4-methoxymethamphetamine;
- 1337 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 1338 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 1339 m. 3,4-Methylenedioxyamphetamine;
- 1340 n. N,N-dimethylamphetamine; or
- 1341 o. 3,4,5-Trimethoxyamphetamine,

1342
 1343 individually or in any combination of or any mixture containing
 1344 any substance listed in sub-subparagraphs a.-o., and who knows
 1345 that the probable result of such manufacture or importation
 1346 would be the death of any person commits capital manufacture or
 1347 importation of Phenethylamines, a capital felony punishable as
 1348 provided in ss. 775.082 and 921.142. Any person sentenced for a
 1349 capital felony under this paragraph shall also be sentenced to
 1350 pay the maximum fine provided under subparagraph 1.

1351 (1)1. Any person who knowingly sells, purchases,
 1352 manufactures, delivers, or brings into this state, or who is

1353 knowingly in actual or constructive possession of, 1 gram or
1354 more of lysergic acid diethylamide (LSD) as described in s.
1355 893.03(1)(c), or of any mixture containing lysergic acid
1356 diethylamide (LSD), commits a felony of the first degree, which
1357 felony shall be known as "trafficking in lysergic acid
1358 diethylamide (LSD)," punishable as provided in s. 775.082, s.
1359 775.083, or s. 775.084. If the quantity involved:

1360 a. Is 1 gram or more, but less than 5 grams, such person
1361 shall be sentenced to a mandatory minimum term of imprisonment
1362 of 3 years, and the defendant shall be ordered to pay a fine of
1363 \$50,000.

1364 b. Is 5 grams or more, but less than 7 grams, such person
1365 shall be sentenced to a mandatory minimum term of imprisonment
1366 of 7 years, and the defendant shall be ordered to pay a fine of
1367 \$100,000.

1368 c. Is 7 grams or more, such person shall be sentenced to a
1369 mandatory minimum term of imprisonment of 15 calendar years and
1370 pay a fine of \$500,000.

1371 2. Any person who knowingly manufactures or brings into
1372 this state 7 grams or more of lysergic acid diethylamide (LSD)
1373 as described in s. 893.03(1)(c), or any mixture containing
1374 lysergic acid diethylamide (LSD), and who knows that the
1375 probable result of such manufacture or importation would be the
1376 death of any person commits capital manufacture or importation
1377 of lysergic acid diethylamide (LSD), a capital felony punishable
1378 as provided in ss. 775.082 and 921.142. Any person sentenced for

HB 1039

2014

1379 | a capital felony under this paragraph shall also be sentenced to
1380 | pay the maximum fine provided under subparagraph 1.

1381 | Section 13. Except as otherwise expressly provided in this
1382 | act, this act shall take effect July 1, 2015.