

By Senator Bracy

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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.; defining terms; levying a
18 tax on cannabis purchases; providing exceptions;
19 providing for the collection, payment, and
20 administration of the tax; requiring recordkeeping;
21 prohibiting specified offenses concerning the tax;
22 providing criminal penalties; defining terms;
23 providing the department with enforcement authority;
24 authorizing the department to adopt rules; providing a
25 contingent effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Section 566.801, Florida Statutes, is created to

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30 read:

31 566.801 Fees.—Licensing and registration fees under this
32 chapter are as follows:33 (1) Early approval adult use dispensing organization
34 license fees:35 (a) Application under s. 566.202(2)(a), \$30,000.36 (b) Renewal under s. 566.202(11)(a), \$30,000.37 (c) Secondary location application under s.
38 566.202(15)(d)1., \$30,000.39 (d) Secondary location renewal under s. 566.202(15)(p)1.,
40 \$30,000.41 (2) Conditional adult use dispensing organization licenses:42 (a) Under s. 566.203(4)(a), \$5,000.43 (b) Under s. 566.203(7)(b), \$60,000.44 (3) Adult use dispensing organization licenses:45 (a) Initial license under s. 566.2032(2)(b), \$60,000.46 (b) Renewal under s. 566.20331(3), \$60,000.47 (4) Adult use dispensing organization agent:48 (a) Identification card fees:49 1. Initial card under s. 566.2033(1)(e), \$100.50 2. Renewal card under s. 566.20331(3), \$100.51 (b) Applicants for training approval:52 1. Under s. 566.2033(1)(e), \$2,000.53 2. Under s. 566.2033(16), \$2,000.54 (5) Changes in ownership of a dispensing organization under
55 s. 566.20334(10)(b), \$5,000.56 (6) Early approval of adult use cultivation center
57 licenses:58 (a) Application fee under s. 566.3011(2)(a), \$100,000.

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- 59 (b) Cannabis business development fee under s.
- 60 566.3011(2) (h), \$250,000.
- 61 (c) Required contribution under s. 566.3011(2) (i),
- 62 \$100,000.
- 63 (d) Renewal fee under s. 566.3011(3) (a), \$100,000.
- 64 (7) Conditional adult use license under s. 566.3013(4),
- 65 \$100,000.
- 66 (8) Conditional adult use cultivation center license
- 67 registration fee under s. 566.3014(2) (b), \$100,000.
- 68 (9) Cultivation center license renewal under s.
- 69 566.3019(1) (a), \$100,000.
- 70 (10) Craft grower:
- 71 (a) Application fee under s. 566.401(2) (a)1., \$5,000.
- 72 (b) License fee under s. 566.401(3) (d), \$40,000.
- 73 (c) License renewal under s. 566.401(9) (a)1., \$40,000.
- 74 (11) Infuser organization:
- 75 (a) Application fee under s. 566.405(2) (a)1., \$5,000.
- 76 (b) License fee under s. 566.401(3) (d), \$5,000.
- 77 (c) Renewal application fee under s. 566.405(9) (a)1.,
- 78 \$20,000.
- 79 (12) Transporting organizations:
- 80 (a) Application fee under s. 566.4501(2) (a)1., \$5,000.
- 81 (b) License fee under s. 566.4501(3) (e), \$10,000.
- 82 (c) Renewal fee under s. 566.4501(8) (a)1., \$10,000.
- 83 Section 2. Section 566.802, Florida Statutes, is created to
- 84 read:
- 85 566.802 Contributions for early approval adult use
- 86 dispensing organization licenses.—
- 87 (1) As provided in s. 566.202(2) (g), \$100,000.

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88 (2) As provided in s. 566.202(2)(h)1., 2., or 3., \$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 to
91 read:

92 566.803 Department fee revisions.—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 to
96 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., \$100,000.

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

102 (4) As provided in s. 566.202(15)(d)15., \$200,000.

103 Section 5. Present subsections (1) through (4) of section
104 566.805, Florida Statutes, as created by SB ____, are
105 redesignated as subsections (9) through (12), respectively, and
106 new subsections (1) through (8) are added to that section, to
107 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

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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 the department shall establish a reasonable value based on sales
127 of products of like quality, character, and use in other areas
128 of this 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 reimburse themselves for their tax liability hereunder by
136 separately stating reimbursement for their tax liability as an
137 additional charge.

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

141 (2) REGISTRATION OF CULTIVATORS.—Every cultivator and craft
142 grower subject to the tax under this section shall apply to the
143 Department of Revenue for a certificate of registration under
144 this section. All applications for registration under this
145 section shall be made by electronic means in the form and manner

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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, a certificate of
149 registration may not 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 address is different from where the taxpayer engaged in the
159 business of cultivating cannabis subject to tax under this
160 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 during
171 the preceding calendar month and upon the basis of which the tax
172 is imposed.

173 7. The amount of tax due.

174 8. The signature of the taxpayer.

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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. A discount may not be claimed by a
190 taxpayer on returns not timely filed and for taxes not timely
191 remitted. A discount may not be claimed by a taxpayer for any
192 return that is not filed electronically. A discount may not 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

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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 1
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, 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

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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 the taxpayer
242 shall be liable for penalties and interest on the difference.

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

248 (4) INFUSER INFORMATION RETURNS.—If it is deemed necessary
249 for the administration of this section, the department may adopt
250 rules that require infusers to file information returns
251 regarding the sale of cannabis by infusers to dispensaries. The
252 department may require infusers to file all information returns
253 by electronic means.

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

257 (6) ADMINISTRATION AND ENFORCEMENT.—The department shall
258 have full power to administer and enforce this section; to
259 collect all taxes, penalties, and interest due hereunder; to
260 dispose of taxes, penalties and interest so collected in the
261 manner hereinafter provided; and to determine all rights to

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262 credit memoranda arising on account of the erroneous payment of
263 tax, penalty, or interest hereunder. In the administration of,
264 and compliance with, this section, the department and persons
265 who are subject to this section shall have the same rights,
266 remedies, privileges, immunities, powers, and duties; be subject
267 to the same conditions, restrictions, limitations, penalties,
268 and definitions of terms; and employ the same procedures as are
269 prescribed in chapter 212 which are not inconsistent with this
270 section, as fully as if those provisions were set forth herein.

271 (7) INVOICES.—Every sales invoice for cannabis issued by a
272 cultivator to a cannabis business establishment must contain the
273 cultivator's certificate of registration number assigned under
274 this section; the date; the invoice number; the purchaser's name
275 and address; the selling price; the amount of cannabis,
276 concentrate, or cannabis-infused product; and any other
277 reasonable information as the department may provide by rule is
278 necessary for the administration of this section. Cultivators
279 shall retain the invoices for inspection by the department.

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

282 Section 6. Section 566.806, Florida Statutes, is created to
283 read:

284 566.806 Cannabis purchaser excise tax.—

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

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

290 (b) "Cannabis-infused product" means beverages, food, oils,

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291 ointments, tinctures, topical formulations, or other products
292 containing cannabis that is not intended to be smoked.

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

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

296 (e) "Infuser organization" or "infuser" means a facility
297 operated by an organization or a business that is licensed by
298 the Department of Business and Professional Regulation to
299 directly incorporate cannabis or cannabis concentrate into a
300 product formulation to produce a cannabis-infused product.

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

308 1. Any charge for a payment that is not honored by a
309 financial institution;

310 2. Any finance or credit charge, penalty or charge for
311 delayed payment, or discount for prompt payment; or

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

315 (g) "Purchaser" means a person who acquires cannabis for a
316 valuable consideration.

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

319 (2) TAX IMPOSED.-

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

323 1. Any cannabis, other than a cannabis-infused product,
324 with an adjusted delta-9-tetrahydrocannabinol level at or below
325 35 percent shall be taxed at a rate of 10 percent of the
326 purchase price.

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

331 3. A cannabis-infused product shall be taxed at a rate of
332 20 percent of the purchase price.

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

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

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

347 (e) The tax imposed under this section may not be imposed
348 on any purchase by a purchaser if the cannabis retailer is

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349 prohibited by federal or State Constitution, treaty, convention,
350 statute, or court decision from collecting the tax from the
351 purchaser.

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

358 (4) COLLECTION OF TAX.—

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

371 (b) If a cannabis retailer collects cannabis purchaser
372 excise tax measured by a purchase price that is not subject to
373 cannabis purchaser excise tax, or if a cannabis retailer, in
374 collecting cannabis purchaser excise tax measured by a purchase
375 price that is subject to tax under this section, collects more
376 from the purchaser than the required amount of the cannabis
377 purchaser excise tax on the transaction, the purchaser shall

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378 have a legal right to claim a refund of that amount from the
379 cannabis retailer. If that amount is not refunded to the
380 purchaser for any reason, the cannabis retailer is liable to pay
381 that amount to the department.

382 (c) Any person purchasing cannabis subject to tax under
383 this section who has not been charged the tax imposed by
384 subsection (2) shall make payment of the tax imposed by
385 subsection (2) in the form and manner provided by the department
386 not later than the 20th day of the month following the month of
387 purchase of the cannabis.

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

398 (6) TAX COLLECTED AS DEBT OWED TO STATE.—Any cannabis
399 retailer required to collect the tax imposed by this section
400 shall be liable to the department for the tax, whether or not
401 the tax has been collected by the cannabis retailer, and any
402 such tax shall constitute a debt owed by the cannabis retailer
403 to the state. To the extent that a cannabis retailer required to
404 collect the tax imposed by this section has actually collected
405 that tax, the tax is held in trust for the benefit of the
406 department.

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407 (7) RETURN AND PAYMENT.—

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

413 1. The cannabis retailer's name.

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

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

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

422 5. The signature of the cannabis retailer.

423 6. Any other information as the department may reasonably
424 require.

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

430 (c) Any amount that is required to be shown or reported on
431 any return or other document under this section shall, if the
432 amount is not a whole-dollar amount, be increased to the nearest
433 whole-dollar amount if the fractional part of a dollar is \$0.50
434 or more and decreased to the nearest whole-dollar amount if the
435 fractional part of a dollar is less than \$0.50. If a total

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436 amount of less than \$1 is payable, refundable, or creditable,
437 the amount shall be disregarded if it is less than \$0.50 and
438 shall be increased to \$1 if it is \$0.50 or more.

439 (d) The cannabis retailer making the return provided for in
440 this section shall also pay to the department, in accordance
441 with this section, the amount of tax imposed by this section,
442 less a discount of 1.75 percent, but not to exceed \$1,000 per
443 return period, which is allowed to reimburse the cannabis
444 retailer for the expenses incurred in keeping records,
445 collecting tax, preparing and filing returns, remitting the tax,
446 and supplying data to the department upon request. A discount
447 may not be claimed by a cannabis retailer on returns not timely
448 filed and for taxes not timely remitted. A discount may not be
449 claimed by a taxpayer for any return that is not filed
450 electronically. A discount may not be claimed by a taxpayer for
451 any payment that is not made electronically, unless a waiver has
452 been granted under this section.

453 (e) Notwithstanding any other provision of this section
454 concerning the time within which a cannabis retailer may file a
455 return, any such cannabis retailer who ceases to engage in the
456 kind of business that makes the person responsible for filing
457 returns under this section shall file a final return under this
458 section with the department within 1 month after discontinuing
459 the business.

460 (f) Each cannabis retailer shall make estimated payments to
461 the department on or before the 7th, 15th, 22nd, and last day of
462 the month during which tax liability to the department is
463 incurred. The payments shall be in an amount not less than the
464 lower of either 22.5 percent of the cannabis retailer's actual

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465 tax liability for the month or 25 percent of the cannabis
466 retailer's actual tax liability for the same calendar month of
467 the preceding year. The amount of the quarter-monthly payments
468 shall be credited against the final tax liability of the
469 cannabis retailer's return for that month. If any such quarter-
470 monthly payment is not paid at the time or in the amount
471 required by this section, the cannabis retailer shall be liable
472 for penalties and interest on the difference between the minimum
473 amount due as a payment and the amount of the quarter-monthly
474 payment actually and timely paid, except insofar as the cannabis
475 retailer has previously made payments for that month to the
476 department in excess of the minimum payments previously due as
477 provided in this section. If any payment provided for in this
478 section exceeds the taxpayer's liabilities under this section,
479 as shown on an original monthly return, the department shall, if
480 requested by the taxpayer, issue to the taxpayer a credit
481 memorandum no later than 30 days after the date of payment. The
482 credit evidenced by the credit memorandum may be assigned by the
483 taxpayer to a similar taxpayer under this section, in accordance
484 with reasonable rules to be prescribed by the department. If no
485 such request is made, the taxpayer may credit the excess payment
486 against tax liability subsequently to be remitted to the
487 department under this section, in accordance with reasonable
488 rules prescribed by the department. If the department
489 subsequently determines that all or any part of the credit taken
490 was not actually due to the taxpayer, the taxpayer's discount
491 shall be reduced, if necessary, to reflect the difference
492 between the credit taken and that actually due, and that
493 taxpayer shall be liable for penalties and interest on the

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494 difference.

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

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

503 (9) RECORDKEEPING; BOOKS AND RECORDS.—

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

522 (b) Books, records, papers, and documents that are required

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

530 (10) VIOLATIONS AND PENALTIES.—

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

542 (b) When the amount due is \$300 or more, any retailer of
543 cannabis who files or causes to be filed a fraudulent return;
544 any officer or agent of a corporation engaged in the business of
545 selling cannabis to purchasers located in this state who files
546 or causes to be filed or signs or causes to be signed a
547 fraudulent return filed on behalf of the corporation; or any
548 accountant or other agent who knowingly enters false information
549 on the return of any taxpayer under this section commits a
550 felony of the second degree, punishable as provided in s.
551 775.082, s. 775.083, or s. 775.084.

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

567 (d) Any person who violates any provision of subsection
568 (5), fails to keep books and records as required under this
569 section, or willfully violates a rule of the department for the
570 administration and enforcement of this section commits a civil
571 violation and may be fined up to \$5,000. If a person fails to
572 produce books and records for inspection by the department upon
573 request, a prima facie presumption shall arise that the person
574 has failed to keep books and records as required under this
575 section. A person who is unable to rebut this presumption is in
576 violation of this section and is subject to the penalties
577 provided in this section. A person commits a separate offense on
578 each day that he or she engages in business in violation of
579 subsection (5).

580 (e) Any person who fails to keep books and records or fails

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

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

593 (g)1. A person commits the offense of tax evasion under
594 this section when he or she knowingly attempts in any manner to
595 evade or defeat the tax imposed on him or her or on any other
596 person, or the payment thereof, and he or she commits an
597 affirmative act in furtherance of the evasion. As used in this
598 paragraph, "affirmative act in furtherance of the evasion" means
599 an act designed in whole or in part to conceal, misrepresent,
600 falsify, or manipulate any material fact or tamper with or
601 destroy documents or materials related to a person's tax
602 liability under this section. Two or more acts of sales tax
603 evasion may be charged as a single count in any indictment,
604 information, or complaint. The amount of tax deficiency may be
605 aggregated for purposes of determining the amount of tax that is
606 attempted to be or is evaded, and the period between the first
607 and last acts may be alleged as the date of the offense.

608 a. When the amount of tax, the assessment or payment of
609 which is attempted to be or is evaded, is less than \$500, a

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610 person commits a felony of the third degree, punishable as
611 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

621 d. When the amount of tax, the assessment or payment of
622 which is attempted to be or is evaded, is \$100,000 or more, a
623 person commits a felony of the first degree, punishable as
624 provided in s. 775.082, s. 775.083, or s. 775.084.

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

630 b. As used in this subparagraph, the term:

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

638 (II) "Electronic cash register" means a device that keeps a

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639 register or supporting documents through the use of an
640 electronic device or computer system designed to record
641 transaction data for the purpose of computing, compiling, or
642 processing retail sales transaction data in any manner.

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

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

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

661 c. A prosecution for any act in violation of this
662 subparagraph may be commenced at any time within 5 years of the
663 commission of that act.

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

666 (i) A person whose principal place of business is in this
667 state and who is charged with a violation under this section

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668 shall be tried in the county where his or her principal place of
669 business is located unless he or she asserts a right to be tried
670 in another venue.

671 (j) Except as otherwise provided in paragraph (h), a
672 prosecution for a violation described in this subsection may be
673 commenced within 3 years after the commission of the act
674 constituting the violation.

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

690 (12) RULEMAKING.—The department may adopt rules and
691 prescribe forms relating to the administration and enforcement
692 of this section.

693 Section 7. Except as otherwise expressly provided in this
694 act, this act shall take effect on the same date that SB ____ or
695 similar legislation takes effect, if such legislation is adopted
696 in the same legislative session or an extension thereof and

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697

becomes a law.