

By Senator Powell

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1                                   A bill to be entitled  
2       An act relating to taxes and fees; creating Part I of  
3       ch. 566, F.S., entitled "Excise Tax"; defining terms;  
4       imposing an excise tax on recreational marijuana;  
5       providing for inflation adjustments to the tax rate;  
6       providing for collection of the tax; providing for  
7       distribution of tax revenues; requiring an annual  
8       report concerning tax revenues; providing criminal  
9       penalties; amending s. 566.036, F.S.; authorizing an  
10      application fee for marijuana establishments;  
11      authorizing applicants to receive more than one type  
12      of marijuana establishment license, providing an  
13      exception; amending s. 566.037, F.S.; conforming  
14      provisions to changes made by the act; providing for  
15      rulemaking concerning application fees; providing  
16      effective dates.

17  
18 Be It Enacted by the Legislature of the State of Florida:

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20       Section 1. Part I of chapter 566, Florida Statutes, as  
21      created by SB \_\_\_\_, 2021 Regular Session, is redesignated as Part  
22      II, and a new Part I of that chapter, consisting of sections  
23      566.011 through 566.015, is created to read:

24                                   CHAPTER 566

25                                   RECREATIONAL MARIJUANA

26                                   PART I

27                                   EXCISE TAX

28       566.011 Definitions.—As used in this part, the term:

29       (1) "Department" means the Department of Business and

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30 Professional Regulation.

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

33 (3) "Marijuana" means all parts of the plant of the genus  
34 cannabis, whether growing or not, the seeds thereof, the resin  
35 extracted from any part of the plant, and every compound,  
36 manufacture, salt, derivative, mixture, or preparation of the  
37 plant, its seeds, or its resin, including marijuana concentrate.  
38 The term does not include industrial hemp, fiber produced from  
39 the stalks, oil, cake made from the seeds of the plant,  
40 sterilized seed of the plant that is incapable of germination,  
41 or the weight of any ingredient combined with marijuana to  
42 prepare topical or oral administrations, food, drink, or any  
43 other product.

44 (4) "Marijuana cultivation facility" means an entity  
45 licensed to cultivate, prepare, and package and sell marijuana  
46 to retail marijuana stores, to marijuana product manufacturing  
47 facilities, and to other marijuana cultivation facilities, but  
48 not to consumers.

49 (5) "Marijuana establishment" means a marijuana cultivation  
50 facility, marijuana testing facility, marijuana product  
51 manufacturing facility, or retail marijuana store.

52 (6) "Marijuana product manufacturing facility" means an  
53 entity licensed to:

54 (a) Purchase marijuana;

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

56 or

57 (c) Sell marijuana and marijuana products to other  
58 marijuana product manufacturing facilities and to retail

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59 marijuana stores, but not to consumers.

60 (7) "Marijuana products" means concentrated marijuana and  
61 products that consist of marijuana and other ingredients and are  
62 intended for use or consumption, including, but not limited to,  
63 edible products, ointments, and tinctures.

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

66 (9) "Retail marijuana store" means an entity licensed to  
67 purchase marijuana from a marijuana cultivation facility and  
68 marijuana products from a marijuana product manufacturing  
69 facility and to sell marijuana and marijuana products to  
70 consumers.

71 566.012 Excise tax on marijuana.-

72 (1) An excise tax is imposed on the sale or transfer of  
73 marijuana from a marijuana cultivation facility to a retail  
74 marijuana store or marijuana product manufacturing facility.  
75 Each marijuana cultivation facility shall pay an excise tax at  
76 the rate of \$50 per ounce, or proportionate part thereof, on  
77 marijuana that is sold or transferred from a marijuana  
78 cultivation facility pursuant to part II.

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

81 (a) Beginning in 2023, on or about February 15 of each  
82 year, the department shall calculate the adjusted excise tax  
83 rates by multiplying the rates in effect on the calculation date  
84 by an inflation index computed as provided in paragraph (b). The  
85 adjusted rates must be rounded to the nearest penny and become  
86 effective on the first day of July immediately after the  
87 calculation. The division shall publish the annually adjusted

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88 excise tax rates and shall provide all necessary forms and  
89 reports.

90 (b) The inflation index is the Consumer Price Index for All  
91 Urban Consumers, U.S. City Average, or successor reports, as  
92 reported by the United States Department of Labor, Bureau of  
93 Labor Statistics, for the calendar year ending on December 31  
94 immediately before the calculation date, divided by the Consumer  
95 Price Index for the previous calendar year. The inflation index  
96 may not be less than one.

97 (c)1. A marijuana cultivation facility subject to the  
98 licensing requirement of s. 566.036 shall file, on or before the  
99 last day of each month, a return on a form prescribed and  
100 furnished by the division together with payment of the tax due  
101 under this part. The return must report all marijuana products  
102 held, purchased, manufactured, brought in, or caused to be  
103 brought in from outside the state or shipped or transported to a  
104 retail marijuana store or marijuana product manufacturing  
105 facility within the state during the previous calendar month. A  
106 marijuana cultivation facility shall keep a complete and  
107 accurate record at its principal place of business to  
108 substantiate all receipts and sales of marijuana products.

109 2. The return must include further information as the  
110 division may prescribe. Tax previously paid on marijuana  
111 products that are returned to a marijuana establishment because  
112 the product has become unfit for use, sale, or consumption and  
113 for marijuana products that are returned to a marijuana  
114 cultivation facility that are subsequently destroyed by the  
115 marijuana cultivation facility may be taken as a credit on a  
116 subsequent return. The division may either witness the

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117 destruction of the product or may accept another form of proof  
118 that the product has been destroyed by the marijuana cultivation  
119 facility.

120 3. A person who is not a marijuana cultivation facility  
121 licensed pursuant to s. 566.036 who imports, receives, or  
122 otherwise acquires marijuana products for use or consumption in  
123 the state from a person other than a licensed marijuana  
124 cultivation facility shall file, on or before the last day of  
125 the month after each month in which marijuana products were  
126 acquired, a return on a form prescribed by the division together  
127 with payment of the tax imposed by this part at the rate  
128 provided in subsection (1). The return must report the quantity  
129 of marijuana products imported, received, or otherwise acquired  
130 from a person other than a licensed marijuana cultivation  
131 facility during the previous calendar month and additional  
132 information that the division may require.

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

136 566.013 Distribution of revenues.—On or before the last day  
137 of each month, the Chief Financial Officer shall transfer 15  
138 percent of the revenue received by the division during the  
139 preceding month pursuant to the tax imposed by s. 566.012 to the  
140 Alcoholic Beverage, Marijuana, and Tobacco Trust Fund  
141 established under s. 561.025. On or before the last day of each  
142 month, the Chief Financial Officer shall transfer the remainder  
143 of the revenues to the Child Care Trust Fund.

144 566.014 Annual report.—The division shall report annually  
145 beginning January 30, 2023, the amount of tax revenue collected

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146 pursuant to s. 566.012 and the amount distributed pursuant to s.  
147 561.025(3) to the appropriations committees of each house of the  
148 Legislature.

149 566.015 Violations.-Any person willfully and knowingly  
150 making any false entries in any records required under this part  
151 or willfully violating any of the provisions of the this part,  
152 concerning the excise tax herein provided for commits a felony  
153 of the third degree, punishable as provided in s. 775.082, s.  
154 775.083, or s. 775.084.

155 Section 2. Subsection (1) of section 566.036, Florida  
156 Statutes, as created by SB \_\_\_\_, 2021 Regular Session, is  
157 amended, to read:

158 566.036 Licensing of marijuana establishments.-

159 (1) An applicant for a marijuana establishment license  
160 shall file an application in the form required by the division  
161 for the type of marijuana establishment license sought, along  
162 with the application fee, not to exceed \$5,000, as set by rule.  
163 An applicant may apply for and be granted more than one type of  
164 marijuana establishment license, except that a person licensed  
165 as a marijuana testing facility may not hold another marijuana  
166 establishment license. The division shall begin accepting and  
167 processing applications by August 1, 2022.

168 Section 3. Paragraph (d) of subsection (2) of section  
169 566.037, Florida Statutes, as created by SB \_\_\_\_, 2021 Regular  
170 Session, is amended to read:

171 566.037 Local control.-

172 (2) If a locality does not prohibit the operation of a  
173 marijuana establishment pursuant to subsection (1), the  
174 following apply:

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175 (d) If the division does not issue a license to an  
176 applicant within 90 days after receipt of the application filed  
177 in accordance with s. 566.036 and does not notify the applicant  
178 of the specific reason for denial, in writing and within 90 days  
179 after receipt of the application, the applicant may resubmit its  
180 application directly to the locality and the locality may issue  
181 an annual license to the applicant. A locality issuing a license  
182 to an applicant shall do so within 90 days after receipt of the  
183 resubmitted application unless the locality finds, and notifies  
184 the applicant, that the applicant is not in compliance with an  
185 ordinance, rule, or regulation made pursuant to s. 566.035 or  
186 paragraph (b) in effect at the time the application is  
187 resubmitted. The locality shall notify the division if the  
188 locality issues an annual license to the applicant. If an  
189 application is submitted to a locality under this paragraph, the  
190 division shall forward to the locality the application fee paid  
191 by the applicant to the division upon request by the locality.

192 Section 4. Effective upon this act becoming a law,  
193 paragraph (b) of subsection (2) of section 6 of SB \_\_\_\_, 2021  
194 Regular Session, is amended to read:

195 Rulemaking.—This section shall take effect upon this act  
196 becoming a law.

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

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

202 Section 5. Except as otherwise expressly provided in this  
203 act, and except for this section, which shall take effect upon

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204 this act becoming a law, this act shall take effect on the same  
205 date that SB \_\_\_ or similar legislation takes effect, if such  
206 legislation is adopted in the same legislative session or an  
207 extension thereof and becomes a law.