

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"; providing  
 4           definitions relating to an excise tax on recreational  
 5           marijuana; imposing an excise tax on recreational  
 6           marijuana; providing for inflation adjustments to the  
 7           tax rate; providing for collection of the tax;  
 8           providing for distribution of tax revenues; requiring  
 9           an annual report concerning tax revenues; prohibiting  
 10          falsifying records or other violations; providing  
 11          criminal penalties; amending s. 566.036, F.S.;  
 12          authorizing an application fee for marijuana  
 13          establishments; amending s. 566.037, F.S.; conforming  
 14          provisions to changes made by the act; providing for  
 15          rulemaking concerning application fees; providing a  
 16          contingent effective date.

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 HB 291, is renumbered as Part II, and a new Part I of  
 22           that chapter, consisting of sections 566.011 through 566.015, is  
 23           created to read:

24                                   CHAPTER 566  
 25                                   RECREATIONAL MARIJUANA

PART I  
EXCISE TAX

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

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

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

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

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

(5) "Marijuana establishment" means a marijuana

51 cultivation facility, marijuana testing facility, marijuana  
 52 product manufacturing facility, or retail marijuana store.

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

55 (a) Purchase marijuana;

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

57 or

58 (c) Sell marijuana and marijuana products to other  
 59 marijuana product manufacturing facilities and to retail  
 60 marijuana stores, but not to consumers.

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

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

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

72 566.012 Excise tax on marijuana.—

73 (1) An excise tax is imposed on the sale or transfer of  
 74 marijuana from a marijuana cultivation facility to a retail  
 75 marijuana store or marijuana product manufacturing facility.

76 Each marijuana cultivation facility shall pay an excise tax at  
77 the rate of \$50 per ounce, or proportionate part thereof, on  
78 marijuana that is sold or transferred from a marijuana  
79 cultivation facility pursuant to part II.

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

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

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

98 (c)1. A marijuana cultivation facility subject to the  
99 licensing requirement of s. 566.036 shall file, on or before the  
100 last day of each month, a return on a form prescribed and

101 furnished by the division together with payment of the tax due  
102 under this part. The return must report all marijuana products  
103 held, purchased, manufactured, brought in, or caused to be  
104 brought in from outside the state or shipped or transported to a  
105 retail marijuana store or marijuana product manufacturing  
106 facility within the state during the previous calendar month. A  
107 marijuana cultivation facility shall keep a complete and  
108 accurate record at its principal place of business to  
109 substantiate all receipts and sales of marijuana products.

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

121 3. A person who is not a marijuana cultivation facility  
122 licensed pursuant to s. 566.036 who imports, receives, or  
123 otherwise acquires marijuana products for use or consumption in  
124 the state from a person other than a licensed marijuana  
125 cultivation facility shall file, on or before the last day of

126 the month after each month in which marijuana products were  
127 acquired, a return on a form prescribed by the division together  
128 with payment of the tax imposed by this part at the rate  
129 provided in subsection (1). The return must report the quantity  
130 of marijuana products imported, received, or otherwise acquired  
131 from a person other than a licensed marijuana cultivation  
132 facility during the previous calendar month and additional  
133 information that the division may require.

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

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

147 566.014 Annual report.—The division shall report annually  
148 beginning January 30, 2023, the amount of tax revenue collected  
149 pursuant to s. 566.012 and the amount distributed pursuant to s.  
150 561.025(3) to the appropriations committees of each house of the

151 Legislature.

152 566.015 Violations.-Any person willfully and knowingly  
153 making any false entries in any records required under this part  
154 or willfully violating any of the provisions of the this part,  
155 concerning the excise tax herein provided for commits a felony  
156 of the third degree, punishable as provided in s. 775.082, s.  
157 775.083, or s. 775.084.

158 Section 2. Subsection (1) of section 566.036, Florida  
159 Statutes, as created by HB 291, is amended, to read:

160 566.036 Licensing of marijuana establishments.-

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

170 Section 3. Paragraph (d) of subsection (2) of section  
171 566.037, Florida Statutes, as created by HB 291, is amended to  
172 read:

173 566.037 Local control.-

174 (2) If a locality does not prohibit the operation of a  
175 marijuana establishment pursuant to subsection (1), the

176 following apply:

177

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

195 Section 4. Effective upon this act becoming a law,  
196 paragraph (b) of subsection (2) of section 6 of HB 291, is  
197 amended to read:

198 Rulemaking.—This section shall take effect upon this act  
199 becoming a law.

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

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

205 Section 5. Except as otherwise provided herein, this act  
206 shall take effect on the same date that HB 291 or similar  
207 legislation takes effect, if such legislation is adopted in the  
208 same legislative session or an extension thereof and becomes a  
209 law.