

1                               A bill to be entitled  
2       An act relating to the taxation of hemp consumable THC  
3       products; amending s. 212.02, F.S.; revising the  
4       definition of term "sales price"; creating s. 581.222,  
5       F.S.; providing definitions; creating s. 581.223,  
6       F.S.; providing legislative findings; providing for  
7       excise taxes on hemp consumable THC products; creating  
8       s. 581.224, F.S.; requiring dealers of hemp consumable  
9       THC products to file a certificate of registration  
10      application with the Department of Agriculture and  
11      Consumer Services; defining the term "active dealer";  
12      creating s. 581.225, F.S.; providing for the payment  
13      and collection of excise taxes on hemp consumable THC  
14      products; defining the term "recurring sales to a  
15      purchaser in the normal course of business"; creating  
16      s. 581.226, F.S.; providing for the allocation and  
17      disposition of proceeds of excise taxes on hemp  
18      consumable THC products; creating s. 581.227, F.S.;  
19      providing for returns and remittance of such taxes;  
20      creating s. 581.2275, F.S.; providing penalties;  
21      creating s. 581.228, F.S.; providing powers of the  
22      department; creating s. 581.229, F.S.; requiring that  
23      payment of hemp consumable THC product excise taxes  
24      and filing of such excise tax returns be made by  
25      electronic funds transfer and electronic data

interchange, respectively; creating s. 581.231, F.S.;  
declaring that excise taxes on hemp consumable THC  
products are government funds; providing for certain  
penalties and warrants; creating s. 581.232, F.S.;  
providing recordkeeping, inspection, and audit  
requirements for dealers of hemp consumable THC  
products; creating s. 581.233, F.S.; providing powers  
of the department in dealing with tax payment  
delinquencies; creating s. 581.234, F.S.; providing  
procedures for fraudulent tax activities; creating s.  
581.235, F.S.; providing circuit court jurisdiction  
for violations; authorizing the department to adopt  
emergency rules; providing contingent effective dates.

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

**Section 1. Subsection (16) of section 212.02, Florida  
Statutes, is amended to read:**

212.02 Definitions.—The following terms and phrases when  
used in this chapter have the meanings ascribed to them in this  
section, except where the context clearly indicates a different  
meaning:

(16) "Sales price" means the total amount paid for  
tangible personal property, including any services that are a  
part of the sale, valued in money, whether paid in money or

51 otherwise, and includes any amount for which credit is given to  
52 the purchaser by the seller, without any deduction therefrom on  
53 account of the cost of the property sold, the cost of materials  
54 used, labor or service cost, interest charged, losses, or any  
55 other expense whatsoever. "Sales price" also includes the  
56 consideration for a transaction which requires both labor and  
57 material to alter, remodel, maintain, adjust, or repair tangible  
58 personal property. Trade-ins or discounts allowed and taken at  
59 the time of sale shall not be included within the purview of  
60 this subsection. "Sales price" also includes the full face value  
61 of any coupon used by a purchaser to reduce the price paid to a  
62 retailer for an item of tangible personal property; where the  
63 retailer will be reimbursed for such coupon, in whole or in  
64 part, by the manufacturer of the item of tangible personal  
65 property; or whenever it is not practicable for the retailer to  
66 determine, at the time of sale, the extent to which  
67 reimbursement for the coupon will be made. The term "sales  
68 price" does not include federal excise taxes imposed upon the  
69 retailer on the sale of tangible personal property. The term  
70 "sales price" does include federal manufacturers' excise taxes,  
71 even if the federal tax is listed as a separate item on the  
72 invoice. To the extent required by federal law, the term "sales  
73 price" does not include charges for Internet access services  
74 which are not itemized on the customer's bill, but which can be  
75 reasonably identified from the selling dealer's books and

76 records kept in the regular course of business. The dealer may  
77 support the allocation of charges with books and records kept in  
78 the regular course of business covering the dealer's entire  
79 service area, including territories outside this state. The term  
80 "sales price" does not include the excise tax imposed under s.  
81 581.223.

82 **Section 2. Section 581.222, Florida Statutes, is created**  
83 **to read:**

84 581.222 Definitions.—As used in ss. 581.222-581.235, the  
85 term:

86 (1) "Commissioner" means the Commissioner of Agriculture.

87 (2) "Dealer" means a person authorized to sell hemp  
88 consumable THC products under s. 581.217(7) and registered with  
89 the department as a retail seller of hemp consumable THC  
90 products in this state.

91 (3) "Hemp consumable THC product" has the same meaning as  
92 in s. 581.217(3).

93 (4) "Retail sale" means the sale of hemp consumable THC  
94 products for any purpose other than for resale. However, any  
95 sale for resale must comply with s. 581.225(2) and the rules  
96 adopted thereunder.

97 (5) "Sale" means any transfer of title or possession, or  
98 both, exchange, or barter, in any manner or by any means  
99 whatsoever, of hemp consumable THC products for a consideration.

100 (6) "Sales price" means the total amount charged in money

101 or other consideration by a dealer for the sale of hemp  
102 consumable THC products, but does not include any sales tax  
103 imposed and charged pursuant to chapter 212.

104 **Section 3. Section 581.223, Florida Statutes, is created**  
105 **to read:**

106 581.223 Excise tax on hemp consumable THC products.—  
107 The Legislature finds that every person who engages in the  
108 business of selling hemp consumable THC products at retail in  
109 this state is exercising a taxable privilege. For the exercise  
110 of such taxable privilege, a tax is levied on each taxable  
111 transaction and is due and payable at the rate of 15 percent of  
112 the sales price of the hemp consumable THC product when sold at  
113 retail in this state.

114 **Section 4. Section 581.224, Florida Statutes, is created**  
115 **to read:**

116 581.224 Registration.—

117 (1) Each person seeking to engage in business as a dealer  
118 of hemp consumable THC products must file with the department an  
119 application for a certificate of registration.

120 (2) A person may not engage in the business of selling  
121 hemp consumable THC products at retail in this state without  
122 first obtaining a certificate of registration. The failure or  
123 refusal to submit an application by any person required to  
124 register, as required by this section, is a misdemeanor of the  
125 first degree, punishable as provided in s. 775.082 or s.

126 775.083. Any person who fails or refuses to register shall pay  
127 an initial registration fee of \$100. However, this fee may be  
128 waived by the department if the failure is due to reasonable  
129 cause.

130 (3)(a) An application for a certificate of registration  
131 must be completed by the dealer of hemp consumable THC products  
132 before engaging in business. The application for a certificate  
133 of registration must contain the information required by rule of  
134 the department.

135 (b) The department, upon receipt of a completed  
136 application, shall issue a certificate of registration to the  
137 applicant.

138 (4) Each application required by paragraph (3)(a) must set  
139 forth:

140 (a) The name under which the person will transact business  
141 within this state.

142 (b) The street address of his or her principal office or  
143 place of business within this state and of the location where  
144 records are available for inspection.

145 (c) The name and complete residence address of the owner  
146 or the names and residence addresses of the partners, if the  
147 applicant is a partnership, or of the principal officers, if the  
148 applicant is a corporation or association. If the applicant is a  
149 corporation organized under the laws of another state,  
150 territory, or country, he or she must also file with the

151 application a certified copy of the certificate or license  
152 issued by the Department of State showing that the corporation  
153 is authorized to transact business in this state.

154 (d) Any other data required by the department.

155 (5) Certificates of registration issued by the department  
156 are not assignable.

157 (6) In addition to the certificate of registration, the  
158 department shall provide to each newly registered dealer an  
159 initial resale certificate that is valid for the remainder of  
160 the period of issuance. The department shall provide to each  
161 active dealer an annual resale certificate. As used in this  
162 section, the term "active dealer" means a person who is  
163 registered with the department and who is required to file a  
164 return at least once during each applicable reporting period.

165 (7) A certificate of registration issued by the department  
166 may be revoked by the department or its designated agent when a  
167 dealer fails to comply with this chapter. Before revoking a  
168 dealer's certificate of registration, the department shall  
169 schedule an informal conference at which the dealer may present  
170 evidence regarding the department's intended revocation or enter  
171 into a compliance agreement with the department. The department  
172 shall notify the dealer of its intended action and of the time,  
173 place, and date of the scheduled informal conference by written  
174 notification sent by United States mail to the dealer's last  
175 known address of record furnished by the dealer on a form

prescribed by the department. The dealer must attend the  
informal conference and present evidence refuting the  
department's intended revocation or enter into a compliance  
agreement with the department which resolves the dealer's  
failure to comply with this chapter. The department shall issue  
an administrative complaint under s. 120.60 if the dealer fails  
to attend the department's informal conference, fails to enter  
into a compliance agreement with the department resolving the  
dealer's noncompliance with this chapter, or fails to comply  
with the executed compliance agreement.

**Section 5. Section 581.225, Florida Statutes, is created to read:**

581.225 Payment of excise taxes on hemp consumable THC  
products.—The taxes imposed or administered under this chapter  
shall be collected from all dealers on the sale at retail in  
this state of hemp consumable THC products taxable under this  
chapter.

(1)(a) The taxes collected under this chapter shall be  
paid by the purchaser of the hemp consumable THC products and  
shall be collected from such person by the dealer of hemp  
consumable THC products.

(b) Each dealer of hemp consumable THC products selling  
hemp consumable THC products in this state shall collect the  
taxes imposed under this chapter from the purchaser of such  
products, and such taxes must be stated separately from all



201 other charges on the bill or invoice.

202 (2) Any dealer who makes a sale for resale shall document  
203 the exempt nature of the transaction, as established by rules  
204 adopted by the department, by retaining a copy of the  
205 purchaser's initial or annual resale certificate issued pursuant  
206 to s. 581.224(6). In lieu of maintaining a copy of the  
207 certificate, a dealer may document, before the time of sale, an  
208 authorization number provided telephonically or electronically  
209 by the department or by such other means established by rule of  
210 the department. The dealer may rely on an initial or annual  
211 resale certificate issued pursuant to s. 581.224(6), valid at  
212 the time of receipt from the purchaser, without seeking  
213 additional annual resale certificates from such purchaser, if  
214 the dealer makes recurring sales to the purchaser in the normal  
215 course of business on a continual basis. For purposes of this  
216 paragraph, the term "recurring sales to a purchaser in the  
217 normal course of business" means sales in which the dealer  
218 extends credit to the purchaser and records the debt as an  
219 account receivable, or in which the dealer sells to a purchaser  
220 who has an established cash account, similar to an open credit  
221 account. For purposes of this paragraph, purchases are made from  
222 a selling dealer on a continual basis if the selling dealer  
223 makes, in the normal course of business, sales to the purchaser  
224 no less frequently than once in every 12-month period. A person  
225 who makes a sale for resale which is not in compliance with

226 these rules is liable for any tax, penalty, and interest due for  
227 failing to comply, to be calculated pursuant to s.  
228 581.2275(2) (a) .

229 (3) (a) A dealer must compute the tax due on the sale of  
230 consumable hemp THC products imposed pursuant to this chapter  
231 based on a rounding algorithm that meets the following criteria:

232 1. The computation of the tax must be carried to the third  
233 decimal place.

234 2. The tax must be rounded to the whole cent using a  
235 method that rounds up to the next cent whenever the third  
236 decimal place is greater than four.

237 (b) A dealer may apply the rounding algorithm to the  
238 aggregate tax amount computed on all taxable items on an invoice  
239 or to the taxable amount on each individual item on the invoice.

240 (4) Each purchaser of hemp consumable THC products is  
241 liable for the taxes imposed under this chapter. The purchaser's  
242 liability is not extinguished until the tax has been paid to the  
243 department, except that proof of payment of the tax to a dealer  
244 of hemp consumable THC products engaged in business in this  
245 state is sufficient to relieve the purchaser from further  
246 liability for the tax.

247 **Section 6. Section 581.226, Florida Statutes, is created**  
248 **to read:**

249 581.226 Allocation and disposition of tax proceeds.—The  
250 proceeds of the taxes remitted under this chapter shall be

251 treated as follows:

252 (1) The first \$6 million collected must be deposited into  
253 the department's General Inspection Trust Fund to be used for  
254 the enforcement of ss. 581.217-581.224 and the testing of hemp  
255 consumable THC products.

256 (2) The remainder of the moneys collected under this  
257 section must be deposited into the General Revenue Fund.

258 **Section 7. Section 581.227, Florida Statutes, is created**  
259 **to read:**

260 581.227 Returns.—

261 (1) For the purpose of ascertaining the amount of tax  
262 payable under this chapter, each dealer must file a return and  
263 remit the taxes required to be collected in any calendar month  
264 to the department, on or before the 20th day of the subsequent  
265 month, upon forms prepared and furnished by the department or in  
266 a format prescribed by it. The department shall, by rule,  
267 prescribe the information to be furnished by taxpayers on such  
268 returns.

269 (2) The department shall accept returns, except those  
270 required to be initiated through an electronic data interchange,  
271 as timely if postmarked on or before the 20th day of the month;  
272 if the 20th day falls on a Saturday, Sunday, or federal or state  
273 legal holiday, returns are timely if postmarked on the next  
274 succeeding workday. Each dealer shall file a return for each tax  
275 period even though taxes are not due for such period.

276       (3) Whenever returns are required to be made to the  
277       department, the full amount of the taxes required to be paid as  
278       shown by the return must be paid and accompany the return, and  
279       the failure to remit the full amount of taxes at the time of  
280       making the return shall cause the taxes to become delinquent.  
281       All taxes and all interest and penalties imposed or administered  
282       under this chapter must be remitted to the department in  
283       Tallahassee or at another office designated by the department,  
284       in the form required by the department.

285       (4) The department may require all returns of taxes under  
286       this chapter to be accompanied by a written statement, by the  
287       person or by an officer of any firm or corporation required to  
288       pay such taxes, setting forth the facts that the department  
289       requires in order to ascertain the amount of taxes that are due  
290       and payable with the return. The filing of a return that is not  
291       accompanied by payment is prima facie evidence of the wrongful  
292       conversion of the money due. Any person or any duly authorized  
293       corporation officer or agent, or members of any firm or  
294       incorporated society or organization, who refuses to make a  
295       return and pay the taxes due, as required by the department and  
296       in the manner and in the form that the department requires, or  
297       to state in writing that the return is correct to the best of  
298       his or her knowledge and belief, as required by the department,  
299       is subject to a penalty of 6 percent per annum of the amount due  
300       and commits a misdemeanor of the first degree, punishable as

301 provided in s. 775.082 or s. 775.083. The signing of a written  
302 return has the same legal effect as if made under oath without  
303 the necessity of appending an oath thereto.

304 (5) In addition to the contact person identified on the  
305 return, each dealer obligated to collect and remit the tax  
306 imposed under this chapter may at any time, and shall within 10  
307 days after a request, designate a managerial representative to  
308 whom the department shall direct any inquiry regarding the  
309 completeness or accuracy of the dealer's return when the  
310 response provided by the contact person identified on the return  
311 has been inadequate. When the representative designated under  
312 this subsection is contacted by the department, the dealer shall  
313 respond to the department within 30 days.

314 **Section 8. Section 581.2275, Florida Statutes, is created**  
315 **to read:**

316 581.2275 Penalties.—

317 (1) The department shall adopt rules requiring the  
318 information that it considers necessary to ensure that the taxes  
319 levied or administered under this chapter are properly  
320 collected, reviewed, compiled, reported, and enforced,  
321 including, but not limited to, rules requiring the reporting of  
322 the amount of gross sales; the amount of taxable sales; the  
323 amount of tax collected or due; the amount of lawful refunds,  
324 deductions, or credits claimed; the amount of penalty and  
325 interest; and the amount due with the return.

326       (2) (a) Any person who is required to make a return or pay  
327 the taxes imposed by this chapter who fails to timely file such  
328 return or fails to pay the taxes due within the time required,  
329 in addition to all other penalties provided by law, is subject  
330 to a specific penalty in the amount of 10 percent of any unpaid  
331 tax if the failure is for not more than 30 days, and an  
332 additional 10 percent of any unpaid tax for each additional 30  
333 days, or fraction thereof, during which the failure continues,  
334 not to exceed a total penalty of 50 percent, in the aggregate,  
335 of any unpaid tax.

336       (b) Any person who knowingly and with a willful intent to  
337 evade any tax imposed under this chapter fails to file six  
338 consecutive returns as required by law commits a felony of the  
339 third degree, punishable as provided in s. 775.082 or s.  
340 775.083.

341       (c) Any person who makes a false or fraudulent return with  
342 a willful intent to evade payment of any tax imposed under this  
343 chapter is liable, in addition to the other penalties provided  
344 by law, for a specific penalty of 100 percent of the tax bill or  
345 fee, and:

346       1. If the total amount of unreported taxes is less than  
347 \$300:

348       a. Such person commits, for the first offense, a  
349 misdemeanor of the second degree, punishable as provided in s.  
350 775.082 or s. 775.083.

351 b. Such person commits, for the second offense, a  
352 misdemeanor of the first degree, punishable as provided in s.  
353 775.082 or s. 775.083.

354 c. Such person commits, for the third and subsequent  
355 offenses, a felony of the third degree, punishable as provided  
356 in s. 775.082, s. 775.083, or s. 775.084.

357 2. If the total amount of unreported taxes is \$300 or more  
358 but less than \$20,000, such person commits a felony of the third  
359 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
360 775.084.

361 3. If the total amount of unreported taxes is \$20,000 or  
362 more but less than \$100,000, such person commits a felony of the  
363 second degree, punishable as provided in s. 775.082, s. 775.083,  
364 or s. 775.084.

365 4. If the total amount of unreported taxes is \$100,000 or  
366 more, such person commits a felony of the first degree,  
367 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

368 **Section 9. Section 581.228, Florida Statutes, is created**  
369 **to read:**

370 581.228 Powers of the department.—

371 (1) The department shall administer and enforce the  
372 assessment and collection of the taxes, interest, and penalties  
373 collected under or imposed by this chapter.

374 (2) The department may adopt rules to implement and  
375 administer the tax imposed under this chapter.

376       **Section 10. Section 581.229, Florida Statutes, is created**  
377 **to read:**

378       581.229 Payment of taxes by electronic funds transfer;  
379 filing of returns by electronic data interchange.—

380       (1) A dealer of hemp consumable THC products is required  
381 to remit taxes by electronic funds transfer, in the manner  
382 prescribed by the department, when the amount of tax paid by the  
383 dealer under this chapter in the previous state fiscal year was  
384 greater than or equal to \$5,000.

385       (2)(a) A dealer who is required to remit taxes by  
386 electronic funds transfer shall make a return in a manner that  
387 is initiated through an electronic data interchange. The  
388 department shall prescribe the acceptable method of transfer;  
389 the method, form, and content of the electronic data  
390 interchange, giving due regard to developing uniform standards  
391 for formats as adopted by the American National Standards  
392 Institute; the circumstances under which an electronic data  
393 interchange will serve as a substitute for the filing of another  
394 form of return; and the means, if any, by which taxpayers will  
395 be provided with acknowledgments. The department must accept  
396 such returns as timely if initiated and accepted on or before  
397 the 20th day of the month. If the 20th day falls on a Saturday,  
398 Sunday, or federal or state legal holiday, returns are timely if  
399 initiated and accepted on the next succeeding workday.

400       (b) The department may waive the requirement to make a



return through an electronic data interchange when problems arise with respect to the taxpayer's computer capabilities, data systems changes, or operating procedures. To obtain a waiver, the taxpayer must prove to the department that such problems exist.

(3)(a) The department shall design, prepare, print, and furnish to all dealers, except dealers filing through electronic data interchange, or make available or prescribe to the dealers all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms does not relieve the dealer of the obligation to pay the tax at the time and in the manner required.

(b) The department shall prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting for the taxes due. The failure of any dealer to use such format does not relieve the dealer of the obligation to pay the tax at the time and in the manner required.

**Section 11. Section 581.231, Florida Statutes, is created to read:**

581.231 Taxes declared to be government funds; penalties for failure to remit taxes; warrants.—

(1) The taxes collected under this chapter become

426 government funds from the moment of collection by the dealer.

427 (2) Any person who, with intent to unlawfully deprive or  
428 defraud the state government of its moneys or the use or benefit  
429 thereof, fails to remit taxes collected under this chapter is  
430 guilty of the theft of government funds, punishable as follows:

431 (a) If the total amount of stolen revenue is less than  
432 \$300, the offense is a misdemeanor of the second degree,  
433 punishable as provided in s. 775.082 or s. 775.083. For a second  
434 offense, the offender is guilty of a misdemeanor of the first  
435 degree, punishable as provided in s. 775.082 or s. 775.083. For  
436 a third or subsequent offense, the offender is guilty of a  
437 felony of the third degree, punishable as provided in s.  
438 775.082, s. 775.083, or s. 775.084.

439 (b) If the total amount of stolen revenue is \$300 or more,  
440 but less than \$20,000, the offense is a felony of the third  
441 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
442 775.084.

443 (c) If the total amount of stolen revenue is \$20,000 or  
444 more, but less than \$100,000, the offense is a felony of the  
445 second degree, punishable as provided in s. 775.082, s. 775.083,  
446 or s. 775.084.

447 (d) If the total amount of stolen revenue is \$100,000 or  
448 more, the offense is a felony of the first degree, punishable as  
449 provided in s. 775.082, s. 775.083, or s. 775.084.

450 (3) All taxes collected under this chapter must be

451 remitted to the department. In addition to criminal sanctions,  
452 the department shall, when any tax becomes delinquent or is  
453 otherwise in jeopardy under this chapter, issue a warrant for  
454 the full amount of the tax due or estimated to be due, with the  
455 interest, penalties, and cost of collection, directed to the  
456 sheriffs of the state, and mail the warrant to the clerk of the  
457 circuit court of the county where any property of the taxpayer  
458 is located. Upon receipt of the warrant, the clerk of the  
459 circuit court shall record it, and thereupon the amount of the  
460 warrant becomes a lien on any real or personal property of the  
461 taxpayer in the same manner as a recorded judgment. The  
462 department may issue a tax execution to enforce the collection  
463 of taxes imposed by this chapter and deliver it to any sheriff.  
464 The sheriff shall thereupon proceed in the same manner as  
465 prescribed by law for executions and shall be entitled to the  
466 same fees for his or her services in executing the warrant to be  
467 collected. The department may also have a writ of garnishment  
468 with respect to any indebtedness due to the delinquent dealer by  
469 a third person in any goods, money, chattels, or effects of the  
470 delinquent dealer in the hands, possession, or control of the  
471 third person. Upon payment of the execution, warrant, judgment,  
472 or garnishment, the department shall satisfy the lien of record  
473 within 30 days. If there is jeopardy to the revenue and jeopardy  
474 is asserted in or with an assessment, the department shall  
475 proceed in the manner specified for jeopardy assessments in s.

476 213.732.

477 **Section 12. Section 581.232, Florida Statutes, is created**  
478 **to read:**

479 581.232 Records required to be kept; power to inspect;  
480 audit procedure.—

481 (1)(a) Each dealer shall secure, maintain, and keep for a  
482 minimum of 10 years a complete record of hemp consumable THC  
483 products sold at retail by the dealer, together with invoices,  
484 records of gross receipts from such sales, and other pertinent  
485 records and papers required by the department for the reasonable  
486 administration of this chapter. All such records that are  
487 located or maintained in this state must be made available for  
488 inspection by the department at all reasonable hours at the  
489 dealer's office or other place of business located in this  
490 state. Any dealer who maintains such books and records outside  
491 this state must make such books and records available for  
492 inspection by the department wherever the dealer's general  
493 records are kept. Any dealer subject to the provisions of this  
494 chapter who violates this subsection is guilty of a misdemeanor  
495 of the first degree, punishable as provided in s. 775.082 or s.  
496 775.083. If, however, any subsequent offense involves  
497 intentional destruction of such records with an intent to evade  
498 payment of or deprive the government of any tax revenues, such  
499 subsequent offense constitutes a felony of the third degree,  
500 punishable as provided in s. 775.082 or s. 775.083.

501        (b) For the purpose of this subsection, if a dealer does  
502 not have adequate records of its sales of hemp consumable THC  
503 products, the department may, upon the basis of a test or  
504 sampling of the dealer's available records or other information  
505 relating to the sales made by such dealer for a representative  
506 period, determine the proper basis for assessing tax. This  
507 subsection does not affect the duty of the dealer to collect, or  
508 the liability of any consumer to pay, any tax imposed or  
509 administered under this chapter.

510        (c) If the records of a dealer are adequate but  
511 voluminous, the department may reasonably sample such records  
512 and project the audit findings derived therefrom over the entire  
513 audit period to determine the proper basis for assessing tax. In  
514 order to conduct such a sample, the department must first make a  
515 good faith effort to reach an agreement with the dealer which  
516 provides for the means and methods to be used in the sampling  
517 process. If an agreement is not reached, the dealer is entitled  
518 to a review by the commissioner or the commissioner's designee  
519 of the sampling method to be used by the auditor.

520        (2) For the purpose of enforcement of this chapter, each  
521 dealer shall allow the department to examine its books and  
522 records at all reasonable hours; and, if the dealer refuses, the  
523 department may petition the circuit court to order the dealer to  
524 permit such examination, subject to the right of removal of the  
525 cause to the judicial circuit wherein such person's business is

526 located or wherein such person's books and records are kept.

527 (3) (a) The department shall send written notification, at  
528 least 60 days before the date an auditor is scheduled to begin  
529 an audit, informing the person of the audit. The department is  
530 not required to give written notification 60 days before a  
531 forthcoming audit whenever the person requests an emergency  
532 audit.

533 (b) The written notification must specify:

534 1. The approximate date on which the auditor is scheduled  
535 to begin the audit.

536 2. A reminder that all of the records, receipts, invoices,  
537 resale certificates, and related documentation of the person  
538 must be made available to the auditor.

539 3. Any other requests or suggestions that the department  
540 considers necessary.

541 (c) Only records, receipts, invoices, resale certificates,  
542 and related documentation that are available to the auditor when  
543 the audit begins are acceptable for the purposes of the audit. A  
544 resale certificate containing a date before the date the audit  
545 begins constitutes acceptable documentation of the specific  
546 transactions that occurred in the past.

547 (d) The provisions of this chapter concerning fraudulent  
548 or improper records, receipts, invoices, resale certificates,  
549 and related documentation apply with respect to any audit.

550 (4) If a dealer retains records in machine-readable and

551 hard copy formats, upon a request by the department, the dealer  
552 shall make the records available to the department in the  
553 machine-readable format in which such records are retained. Any  
554 dealer or other person who fails or refuses to provide such  
555 records within 60 days after the department's request or any  
556 extension thereof shall, in addition to all other penalties  
557 provided by law, be subject to a specific penalty of \$5,000 per  
558 audit.

559 **Section 13. Section 581.233, Florida Statutes, is created**  
560 **to read:**

561 581.233 Powers of department in dealing with delinquents;  
562 tax to be separately stated.—

563 (1) If any dealer or other person fails to remit the tax,  
564 or any portion thereof, on or before the day when the tax is  
565 required by law to be paid, there will be added to the amount  
566 due interest at the rate of 1 percent each month of the amount  
567 due from the date due until paid. Interest on the delinquent tax  
568 is to be calculated beginning on the 21st day of the month  
569 following the month for which the tax is due, except as  
570 otherwise provided in this chapter.

571 (2) All penalties and interest imposed by this chapter are  
572 payable to and collectible by the department in the same manner  
573 as if they were a part of the tax collected under this chapter.

574 (3) If a dealer or other person fails or refuses to make  
575 his or her records available for inspection so that an audit or

576 examination of his or her books and records cannot be made,  
577 fails or refuses to register as a dealer, fails to make a report  
578 and pay the tax as provided by this chapter, makes a grossly  
579 incorrect report, or makes a report that is false or fraudulent,  
580 the department shall make an assessment from an estimate based  
581 upon the best information available to it for the taxable period  
582 of retail sales of the dealer, together with any accrued  
583 interest and penalties. The department shall then proceed to  
584 collect the taxes, interest, and penalties on the basis of such  
585 assessment, which shall be considered prima facie correct, and  
586 the burden to show the contrary rests upon the dealer or other  
587 person.

588 (4) For all invoices, each dealer who makes retail sales  
589 of hemp consumable THC products shall add the amount of the  
590 taxes imposed or administered under this chapter to the price of  
591 the hemp consumable THC products sold by him or her and shall  
592 state the taxes separately from the price of the hemp consumable  
593 THC products and separately from any sales tax levied pursuant  
594 to chapter 212.

595 (5) A dealer may not advertise or hold out to the public,  
596 in any manner, directly or indirectly, that he or she will  
597 absorb all or any part of the tax; that he or she will relieve  
598 the purchaser of the payment of all or any part of the tax; that  
599 the tax will not be added to the selling price of the property  
600 sold or released; or, when added, that it or any part thereof



will be refunded directly or indirectly by any method. A person who violates this subsection with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Whenever in the construction, administration, or enforcement of this chapter there is any question respecting a duplication of the tax, the sale to the end consumer or last retail sale is the sale to be taxed, and, insofar as is practicable, there is to be no duplication or pyramiding of the tax.

**Section 14. Section 581.234, Florida Statutes, is created to read:**

581.234 Departmental powers; hearings; distress warrants; bonds; subpoenas and subpoenas duces tecum.—

(1) Any person required to pay a tax imposed or administered under this chapter or to make a return who renders a return or makes a payment of a tax with intent to deceive or defraud the government and prevent the government from collecting the amount of taxes imposed or administered by this chapter, or who otherwise fails to comply with this chapter for the taxable period for which any return is made, any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by

626 the department. The department shall provide written notice to a  
627 person 10 days before the required production of such books,  
628 records, or papers relating to the business of such person for  
629 such tax period. The department may require such person or his  
630 or her employees to give testimony under oath and answer  
631 interrogatories respecting the sale of hemp consumable THC  
632 products within this state, failure to make a true report  
633 thereof, or failure to pay the true amount of the tax required  
634 to be paid under this chapter. If such person fails to produce  
635 such books, records, or papers or to appear and answer questions  
636 within the scope of investigation relating to matters concerning  
637 taxes to be imposed or administered under this chapter, or fails  
638 to allow his or her agents or employees to give testimony, the  
639 department may estimate any unpaid deficiencies in taxes to be  
640 assessed against such person based on whatever information is  
641 available to it and may issue a distress warrant for the  
642 collection of such taxes, interest, or penalties estimated by  
643 the department to be due and payable, and such assessment shall  
644 be deemed prima facie correct. In such cases, the warrant shall  
645 be issued to the sheriff of any county in the state where such  
646 person owns or possesses any property, and the sheriff shall  
647 seize such property as is required to satisfy any such taxes,  
648 interest, or penalties and sell such property under the distress  
649 warrant in the same manner as property is permitted to be seized  
650 and sold under distress warrants issued to secure the payment of

651 delinquent taxes. The department shall also have the right to  
652 writ of garnishment to subject any indebtedness due to the  
653 delinquent dealer by a third person in any goods, money,  
654 chattels, or effects of the delinquent dealer in the hands,  
655 possession, or control of the third person in the manner  
656 provided by law. The person whose tax return or report is being  
657 investigated may by written request to the department require  
658 that the hearing be set at a place within the judicial circuit  
659 wherein the person's business is located or wherein such  
660 person's books and records are kept.

661 (2) Whenever it is necessary to ensure compliance with  
662 this chapter, the department shall require a cash deposit, bond,  
663 or other security as a condition to a person's obtaining or  
664 retaining a dealer's certificate of registration under this  
665 chapter. The bond must be in such form and amount as the  
666 department deems appropriate under the particular circumstances.  
667 Any person who fails to produce such cash deposit, bond, or  
668 other security may not obtain or retain a dealer's certificate  
669 of registration under this chapter. The Department of Legal  
670 Affairs may seek an injunction, when requested by the  
671 department, to prevent such person from doing business subject  
672 to the provisions of this chapter until the cash deposit, bond,  
673 or other security is posted with the department. Any security  
674 required to be deposited may be sold by the department at public  
675 sale if it becomes necessary to do so in order to recover any

676 tax, interest, or penalty due. Notice of such sale may be served  
677 personally or by mail upon the person who deposited the  
678 security. Mailing the notice to the last known address appearing  
679 on the records of the department constitutes adequate service.  
680 Any proceeds of the sale exceeding the amount due under this  
681 chapter must be returned to the person who deposited the  
682 security.

683 (3) The department or any person authorized by it in  
684 writing is authorized to make and sign assessments, tax  
685 warrants, assignments of tax warrants, and satisfaction of tax  
686 warrants.

687 (4) (a) The department may issue subpoenas or subpoenas  
688 duces tecum compelling the attendance and testimony of witnesses  
689 and the production of books, records, written materials, and  
690 electronically recorded information. Subpoenas must be issued  
691 with the written and signed approval of the commissioner or his  
692 or her designee on written and sworn application by any employee  
693 of the department. The application must set forth the reason for  
694 the application, the name of the person subpoenaed, the time and  
695 place of appearance of the witness, and a description of any  
696 books, records, or electronically recorded information to be  
697 produced, together with a statement by the applicant that the  
698 department has unsuccessfully attempted other reasonable means  
699 of securing information and that the testimony of the witness or  
700 the written or electronically recorded materials sought in the

701 subpoena are necessary for the collection of taxes, penalty, or  
702 interest or the enforcement of the taxes levied or administered  
703 under this chapter. A subpoena shall be served in the manner  
704 provided by law and by the Florida Rules of Civil Procedure and  
705 shall be returnable only during regular business hours and at  
706 least 20 calendar days after the date of service of the  
707 subpoena. Any subpoena to which this subsection applies must  
708 identify the taxpayer to whom the subpoena relates and to whom  
709 the records pertain and must provide other information to enable  
710 the person subpoenaed to locate the records required under the  
711 subpoena. The department shall give notice to the taxpayer to  
712 whom the subpoena relates within 3 days after the day on which  
713 the service of the subpoena is made. Within 14 days after  
714 service of the subpoena, the person to whom the subpoena is  
715 directed may serve written objection to the inspection or  
716 copying of any of the designated materials. If objection is  
717 made, the department may not inspect or copy the materials,  
718 except pursuant to an order of the circuit court. If an  
719 objection is made, the department may petition any circuit court  
720 for an order to comply with the subpoena. The subpoena must  
721 contain a written notice of the right to object to the subpoena.  
722 Every subpoena served upon the witness or custodian of records  
723 must be accompanied by a copy of the provisions of this  
724 subsection. If a person refuses to obey a subpoena or subpoena  
725 duces tecum, the department may apply to any circuit court of

726 this state to enforce compliance with the subpoena. Witnesses  
727 are entitled to be paid a mileage allowance and witness fees as  
728 authorized for witnesses in civil cases.

729 (b)1. If any subpoena is served on any person who is a  
730 third-party recordkeeper and the subpoena requires the  
731 production of any portion of the records made or kept of the  
732 business transactions or affairs of any person other than the  
733 person subpoenaed, notice of the subpoena must be given to any  
734 person to whom the records pertain and to the taxpayer to whom  
735 the subpoena relates. Such notice must be given within 3 days  
736 after the day on which the service on the third-party  
737 recordkeeper is made, if the department can at that time  
738 identify the person to whom the records pertain. If the person  
739 to whom the records pertain cannot be identified at the time of  
740 issuance of the subpoena, the third-party recordkeeper shall  
741 immediately inform the department of such person's identity, and  
742 the department shall give notice to that person within 3 days  
743 thereafter. The notice must be accompanied by a copy of the  
744 subpoena that has been served and must contain directions for  
745 staying compliance with the subpoena under subparagraph (c)2.

746 2. The notice is sufficient if, on or before the third  
747 day, the notice is delivered in hand to the person entitled to  
748 notice or is mailed by certified or registered mail to the last  
749 known mailing address of the person, or, in the absence of a  
750 last known address, is left with the person subpoenaed.

751       3. As used in this subsection, the term "third-party  
752 recordkeeper" means:

753       a. Any mutual savings bank, cooperative bank, domestic  
754 building and loan association, or other savings institution  
755 chartered and supervised as a savings and loan association or  
756 similar association under federal or state law; a bank as  
757 defined in s. 581 of the Internal Revenue Code; or any credit  
758 union within the meaning of s. 501(c)(14)(A) of the Internal  
759 Revenue Code.

760       b. Any consumer reporting agency as defined under s.  
761 603(f) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(f).

762       c. Any person extending credit through the use of credit  
763 cards or similar devices.

764       d. Any broker as defined in s. 3(a)(4) of the Securities  
765 Exchange Act of 1934, 15 U.S.C. s. 78c(a)(4).

766       e. Any attorney.

767       f. Any accountant.

768       g. Any barter exchange as defined in s. 6045(c)(3) of the  
769 Internal Revenue Code.

770       h. Any regulated investment company as defined in s. 851  
771 of the Internal Revenue Code.

772       4. This paragraph does not apply to a subpoena served on  
773 the person with respect to whose liability the subpoena is  
774 issued or an officer or employee of the person; to a subpoena to  
775 determine whether or not records of the business transactions or

776 affairs of an identified person have been made or kept; or to a  
777 subpoena described in paragraph (f).

778 (c)1. Notwithstanding any other law, a person who is  
779 entitled to notice of a subpoena under paragraph (b) and the  
780 taxpayer to whom the subpoena relates have the right to  
781 intervene in any proceeding with respect to the enforcement of  
782 the subpoena under paragraph (a).

783 2. Notwithstanding any other law, a person who is entitled  
784 to notice of a subpoena under paragraph (b) and the taxpayer to  
785 whom the subpoena relates have the right to stay compliance with  
786 the subpoena if, within 14 days after the date notice is given  
787 in the manner provided in subparagraph (b)2. and all of the  
788 following apply:

789 a. Notice of intent to stay the subpoena is given in  
790 writing to the person subpoenaed.

791 b. A copy of the notice of intent to stay the subpoena is  
792 mailed by registered or certified mail to the person and to the  
793 department.

794 c. Suit is filed against the department in the circuit  
795 court to stay compliance with the subpoena.

796 (d) An examination of any records required to be produced  
797 under a subpoena as to which notice is required under paragraph  
798 (b) may not be made:

799 1. Before the expiration of the 14-day period allowed for  
800 the notice of intent to stay under subparagraph (c)2.; or



801        2. If the requirements of subparagraph (c)2. have been  
802 met, except in accordance with an order issued by the circuit  
803 court authorizing examination of the records or with the consent  
804 of the person staying compliance.

805        (e) Any subpoena issued under paragraph (a) which does not  
806 identify the person with respect to whose liability the subpoena  
807 is issued may be served only after a proceeding in any circuit  
808 court in which the department establishes all of the following:

809            1. The subpoena relates to the investigation of a  
810 particular person or ascertainable group or class of persons.

811            2. There is reasonable basis for believing that the person  
812 or group or class of persons may fail or may have failed to  
813 comply with any provision of state law.

814            3. The information sought to be obtained from the  
815 examination of the records and the identity of the person or  
816 persons with respect to whose liability the subpoena is issued  
817 is not readily available from other sources.

818        (f) In the case of a subpoena issued under paragraph (a),  
819 the provisions of subparagraph (b)1., and paragraph (c) do not  
820 apply if, upon petition by the department, a circuit court  
821 determines, on the basis of the facts and circumstances alleged,  
822 that there is reasonable cause to believe that the giving of  
823 notice may lead to attempts to conceal, destroy, or alter  
824 records relevant to the examination, may prevent the  
825 communication of information from other persons through

826 intimidation, bribery, or collusion, or may result in flight to  
827 avoid prosecution, testifying, or production of records.

828 (g)1. Any circuit court has jurisdiction to hear and  
829 determine proceedings brought under paragraph (e) or paragraph  
830 (f). The determinations required to be made under paragraphs (e)  
831 and (f) shall be ex parte and shall be made solely upon the  
832 petition and supporting affidavits. An order denying the  
833 petition shall be deemed a final order that may be appealed.

834 2. Except for cases that the court considers of great  
835 importance, any proceeding brought for the enforcement of any  
836 subpoena or any proceeding under this subsection, and any appeal  
837 therefrom, takes precedence on the docket over all cases and  
838 shall be assigned for hearing and decided at the earliest  
839 practicable date.

840 (h) The department shall by rule establish the rates and  
841 conditions for payments to reimburse reasonably necessary costs  
842 directly incurred by third-party recordkeepers in searching for,  
843 reproducing, or transporting books, papers, records, or other  
844 data required to be produced by subpoena upon request of the  
845 department. The reimbursement shall be in addition to any  
846 mileage allowance and fees paid under paragraph (a).

847 (i)1. Except as provided in subparagraph 2., an action  
848 initiated in circuit court under this subsection must be filed  
849 in the circuit court in the county where:

850 a. The taxpayer to whom the subpoena relates resides or

851 maintains his or her principal commercial domicile in this  
852 state;

853 b. The person subpoenaed resides or maintains his or her  
854 principal commercial domicile in this state; or

855 c. The person to whom the records pertain resides or  
856 maintains his or her principal commercial domicile in this  
857 state.

858 2. Venue in an action initiated in circuit court under  
859 this subsection by a person who is not a resident of this state  
860 or does not maintain a commercial domicile in this state rests  
861 in Leon County.

862 3. Venue in an action initiated in circuit court pursuant  
863 to paragraph (e) rests in the Second Judicial Circuit Court in  
864 and for Leon County.

865 **Section 15. Section 581.235, Florida Statutes, is created**  
866 **to read:**

867 581.235 Jurisdiction; dealers not qualified to do business  
868 in this state.—

869 (1) All suits brought by the department against any dealer  
870 for any violation of this chapter for the purpose of collecting  
871 any tax due from the dealer, including garnishment proceedings,  
872 regardless of the amount, must be brought in the circuit court  
873 of this state having jurisdiction of the subject matter.

874 (2) Each dealer who is not qualified to do business in  
875 this state shall designate with the department an agent within

876 this state for service of process to enforce this chapter. If a  
877 dealer fails to designate such an agent, the Secretary of State  
878 or any agent or employee of the dealer within this state  
879 constitutes the agent for the service of such process.

880       **Section 16.** Effective upon this act becoming a law, the  
881 Department of Agriculture and Consumer Services may, and all  
882 conditions are deemed met to, adopt emergency rules pursuant to  
883 s. 120.54(4), Florida Statutes, to implement and administer this  
884 act. Notwithstanding any other law, emergency rules adopted  
885 pursuant to this section are effective for 6 months after  
886 adoption and may be renewed during the pendency of procedures to  
887 adopt permanent rules addressing the subject of the emergency  
888 rules. This section expires July 1, 2027.

889       **Section 17.** Except as otherwise expressly provided in this  
890 act and except for this section, which shall take effect upon  
891 becoming a law, this act shall take effect January 1, 2026, if  
892 HB 7027 or similar legislation is adopted in the same  
893 legislative session or an extension thereof and becomes a law.