

**By Senator Rouson**

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A bill to be entitled

An act relating to THC; amending s. 316.1936, F.S.; defining the term "THC-infused beverage"; prohibiting a person from possessing an open container of a THC-infused beverage or consuming such beverage while operating a vehicle in this state, being a passenger in or on a vehicle being operated in this state, or while seated in or on a parked or stopped motor vehicle within a road in this state; authorizing a county or municipality to adopt certain restrictions on the possession of THC-infused beverages in vehicles; amending s. 500.03, F.S.; revising the definition of the term "food"; creating s. 581.218, F.S.; defining the term "THC-infused beverage"; prohibiting a person from selling, giving, serving, or permitting the service of THC-infused beverages to persons under 21 years of age; providing criminal penalties; prohibiting the possession of THC-infused beverages by persons under 21 years of age; providing criminal penalties; prohibiting the retail sale of THC-infused beverages at certain locations; prohibiting THC-infused beverages from containing alcoholic or intoxicating beverages; prohibiting the location of an establishment permitted to sell THC-infused beverages within a certain distance of a school or day care facility; requiring that a retail sale or transaction for THC-infused beverages occur in a specified manner; prohibiting the direct delivery of THC-infused beverages to consumers; prohibiting a

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30                   retail licensee from applying for or holding certain  
31                   licenses and permits; requiring that THC-infused  
32                   beverages be distributed by a licensed distributor;  
33                   prohibiting a THC-infused beverage distributor from  
34                   taking certain actions; requiring such distributors to  
35                   pay a certain tax to the Division of Alcoholic  
36                   Beverages and Tobacco within the Department of  
37                   Business and Professional Regulation; authorizing THC-  
38                   infused beverage distributors to credit sales to a  
39                   vendor; prohibiting a retail vendor of THC-infused  
40                   beverages from taking certain actions; requiring  
41                   certain THC-infused beverages to comply with certain  
42                   requirements; providing civil penalties; reenacting s.  
43                   316.2069(5), F.S., relating to commercial megacycles,  
44                   to incorporate the amendment made to s. 316.1936,  
45                   F.S., in a reference thereto; providing an effective  
46                   date.

47  
48                   Be It Enacted by the Legislature of the State of Florida:

49  
50                   Section 1. Section 316.1936, Florida Statutes, is amended  
51                   to read:

52                   316.1936 Possession of open containers of alcoholic  
53                   beverages or THC-infused beverages in vehicles prohibited;  
54                   penalties.—

55                   (1) As used in this section, the term:

56                   (a) "Open container" means any container of an alcoholic  
57                   beverage or a THC-infused beverage which is immediately capable  
58                   of being consumed from, or the seal of which has been broken.

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59       (b) "Road" means a way open to travel by the public,  
60 including, but not limited to, a street, a highway, or an alley.  
61 The term includes associated sidewalks, the roadbed, the right-  
62 of-way, and all culverts, drains, sluices, ditches, water  
63 storage areas, embankments, slopes, retaining walls, bridges,  
64 tunnels, and viaducts necessary for the maintenance of travel,  
65 and all ferries used in connection therewith.

66       (c) "THC-infused beverage" means a soft drink, soda, juice,  
67 tea, or other beverage intended for ingestion which contains  
68 low-THC cannabis as defined in s. 381.986.

69       (2) (a) It is unlawful and punishable as provided in this  
70 section for any person to do either of the following while  
71 operating a vehicle in this state or while being a passenger in  
72 or on a vehicle being operated in this state:

73       1. Possess an open container of an alcoholic beverage or a  
74 THC-infused beverage.

75       2. Consume an alcoholic beverage or a THC-infused beverage  
76 while operating a vehicle in the state or while a passenger in  
77 or on a vehicle being operated in the state.

78       (b) It is unlawful and punishable as provided in this  
79 section for any person to do either of the following while  
80 seated in or on a motor vehicle that is parked or stopped within  
81 a road:

82       1. Possess an open container of an alcoholic beverage or a  
83 THC-infused beverage.

84       2. Consume an alcoholic beverage or a THC-infused beverage  
85 while seated in or on a motor vehicle that is parked or stopped  
86 within a road as defined in this section.

87       (c) Notwithstanding the prohibition contained in this

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88 section, passengers in vehicles designed, maintained, and used  
89 primarily for the transportation of persons for compensation and  
90 in motor homes are exempt.

91 (3) An open container shall be considered to be in the  
92 possession of the operator of a vehicle if the container is not  
93 in the possession of a passenger and is not located in a locked  
94 glove compartment, locked trunk, or other locked nonpassenger  
95 area of the vehicle.

96 (4) An open container shall be considered to be in the  
97 possession of a passenger of a vehicle if the container is in  
98 the physical control of the passenger.

99 (5) This section shall not apply to:

100 (a) A passenger of a vehicle in which the driver is  
101 operating the vehicle pursuant to a contract to provide  
102 transportation for passengers and such driver holds a valid  
103 commercial driver license with a passenger endorsement issued in  
104 accordance with the requirements of chapter 322;

105 (b) A passenger of a bus in which the driver holds a valid  
106 commercial driver license with a passenger endorsement issued in  
107 accordance with the requirements of chapter 322; or

108 (c) A passenger of a self-contained motor home which is in  
109 excess of 21 feet in length.

110 (6) Any operator of a vehicle who violates this section is  
111 guilty of a noncriminal moving traffic violation, punishable as  
112 provided in chapter 318. A passenger of a vehicle who violates  
113 this section is guilty of a nonmoving traffic violation,  
114 punishable as provided in chapter 318.

115 (7) A county or municipality may adopt an ordinance which  
116 imposes more stringent restrictions on the possession of

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117       alcoholic beverages or THC-infused beverages in vehicles than  
118       those imposed by this section.

119               (8) Nothing in this section prohibits the enforcement of s.  
120               316.302.

121               (9) An alcoholic beverage that has been sealed by a  
122       licensee or the employee of a licensee and is transported  
123       pursuant to s. 564.09, s. 561.20(2)(a)4., or s. 565.045(1) is  
124       not an open container under this section.

125               Section 2. Paragraph (n) of subsection (1) of section  
126       500.03, Florida Statutes, is amended to read:

127               500.03 Definitions; construction; applicability.—

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

129               (n) "Food" includes:

130               1. Articles used for food or drink for human consumption;

131               2. Chewing gum;

132               3. Articles used for components of any such article;

133               4. Articles for which health claims are made, which claims  
134       are approved by the Secretary of the United States Department of  
135       Health and Human Services and which claims are made in  
136       accordance with s. 343(r) of the federal act, and which are not  
137       considered drugs solely because their labels or labeling contain  
138       health claims;

139               5. Dietary supplements as defined in 21 U.S.C. s.  
140       321(ff)(1) and (2); and

141               6. Consumable THC products, excluding THC-infused beverages  
142       Hemp extract as defined in s. 581.218(1) s. 581.217.

144       The term includes any raw, cooked, or processed edible  
145       substance; ice; any beverage; or any ingredient used, intended

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146 for use, or sold for human consumption.

147 Section 3. Section 581.218, Florida Statutes, is created to  
148 read:

149 581.218 Restrictions on the sale of THC-infused beverages.

150 (1) DEFINITIONS.—As used in this section, the term "THC-  
151 infused beverage" means a soft drink, soda, juice, tea, or other  
152 beverage intended for ingestion which contains low-THC cannabis  
153 as defined in s. 381.986.

154 (2) PROHIBITIONS.—

155 (a) It is unlawful for any person to:

156 1. Sell, give, serve, or permit to be served THC-infused  
157 beverages to a person under 21 years of age, or permit a person  
158 under 21 years of age to consume such beverages. A person who  
159 violates this subparagraph commits a misdemeanor of the second  
160 degree, punishable as provided in s. 775.082 or s. 775.083. A  
161 person who violates this subparagraph a second or subsequent  
162 time within 1 year after a prior conviction commits a  
163 misdemeanor of the first degree, punishable as provided in s.  
164 775.082 or s. 775.083.

165 2. Possess THC-infused beverages if such person is under 21  
166 years of age. Any person who violates this subparagraph commits  
167 a misdemeanor of the second degree, punishable as provided in s.  
168 775.082 or s. 775.083. A second or subsequent violation of this  
169 subparagraph less than 1 year after the first violation is a  
170 misdemeanor of the first degree, punishable as provided in s.  
171 775.082 or s. 775.083.

172 3. Sell, at retail, THC-infused beverages at a location  
173 other than premises licensed to sell alcoholic beverages under  
174 s. 565.02(1). Unpermitted business sales, street sales, or

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175 festival sales are prohibited.176 (b) THC-infused beverages may not contain alcoholic  
177 beverages or intoxicating beverages as defined in s. 561.01(4)  
178 and (5), respectively.179 (3) RETAIL SALE OF THC-INFUSED BEVERAGES.—180 (a) An establishment permitted to sell THC-infused  
181 beverages may not be located within 500 feet of a school or day  
182 care facility.183 (b) Retail sales of THC-infused beverages or transfers of  
184 THC-infused beverages from retailer to consumer must take place  
185 at a licensed retail location in a face-to-face transaction. The  
186 delivery of THC-infused beverages to consumers, directly or  
187 indirectly, is prohibited.188 (c) A retail licensee permitted to sell THC-infused  
189 beverages may not apply for or hold either of the following:190 1. A license to distribute such beverages under s.  
191 581.217(7)(b).192 2. A food permit to manufacture such beverages under  
193 chapter 500 and rule 5K-4, Florida Administrative Code.194 (4) THC-INFUSED BEVERAGE DISTRIBUTOR.—195 (a) THC-infused beverages may be distributed in this state  
196 only by a distributor licensed under the Beverage Law as  
197 described in s. 561.14(2). A distributor permitted to distribute  
198 THC-infused beverages must own or lease a licensed premises in  
199 this state.200 (b) A distributor of THC-infused beverages may not:201 1. Assist any retail vendor by any gift or loan of money or  
202 property of any description, including equipment, fixtures, or  
203 furnishings.

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204        2. Sell or provide THC-infused beverages to a retail vendor  
205        who does not hold an active hemp permit.

206        3. Make consignment sales to retail vendors of THC-infused  
207        beverages, including any right of return or exchange because the  
208        product is overstocked or slow moving.

209        4. Give a retailer of THC-infused beverages anything of  
210        value to promote THC-infused beverages or provide shelf space or  
211        floor space to stock or promote THC-infused beverages.

212        5. Apply for or hold a food permit to manufacture THC-  
213        infused beverages under chapter 500 and rule 5K-4, Florida  
214        Administrative Code.

215        (c) Distributors shall pay a tax at the rate of 5 cents per  
216        milligram of hemp-derived cannabinoid in each THC-infused  
217        beverage sold at wholesale in this state. The tax shall be paid  
218        to the Division of Alcoholic Beverages and Tobacco within the  
219        Department of Business and Professional Regulation monthly on or  
220        before the 10th day of the following month.

221        (d) Credit for the sale of THC-infused beverages may be  
222        extended by distributors to any vendor up to, but not including,  
223        the 10th day after the calendar week within which such sale was  
224        made.

225        (5) THC-INFUSED BEVERAGE RETAIL VENDOR.—A retail vendor of  
226        THC-infused beverages may not:

227        (a) Purchase or otherwise obtain such beverages from a  
228        person not licensed as a distributor licensed under the Beverage  
229        Law as described in s. 561.14(2).

230        (b) Attempt to return to a distributor or exchange a THC-  
231        infused beverage because the product is overstocked or slow  
232        moving.

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233        (6) TESTING AND PURITY.—THC-infused beverages manufactured,  
234        marketed, distributed, or sold at retail in this state must  
235        comply with all testing, purity, THC limit, packaging, and  
236        labeling requirements in s. 581.217.

237        (7) CIVIL PENALTIES.—A person or entity that violates this  
238        section is subject to a civil penalty levied by the Division of  
239        Alcoholic Beverages and Tobacco within the Department of  
240        Business and Professional Regulation according to the following  
241        schedule:

- 242        (a) One thousand dollars for a first offense.
- 243        (b) Five thousand dollars for a second offense.
- 244        (c) Ten thousand dollars for a third or subsequent offense.

245        Section 4. For the purpose of incorporating the amendment  
246        made by this act to section 316.1936, Florida Statutes, in a  
247        reference thereto, subsection (5) of section 316.2069, Florida  
248        Statutes, is reenacted to read:

249        316.2069 Commercial megacycles.—The governing body of a  
250        municipality, or the governing board of a county with respect to  
251        an unincorporated portion of the county, may authorize the  
252        operation of a commercial megacycle on roads or streets within  
253        the respective jurisdictions if the requirements of subsections  
254        (1)–(3) are met:

255        (5) Section 316.1936 does not apply to the passengers being  
256        transported in a commercial megacycle while operating in  
257        accordance with this section.

258        Section 5. This act shall take effect July 1, 2026.