

1 A bill to be entitled
2 An act relating to adult use marijuana legalization;
3 amending s. 20.165, F.S.; renaming the Division of
4 Alcoholic Beverages and Tobacco of the Department of
5 Business and Professional Regulation; amending s.
6 561.025, F.S.; renaming the Alcoholic Beverage and
7 Tobacco Trust Fund; specifying distribution of funds;
8 providing a directive to the Division of Law Revision;
9 creating chapter 566, F.S., relating to recreational
10 marijuana; providing definitions; exempting certain
11 activities involving marijuana from use and possession
12 offenses; authorizing persons age 21 and over to
13 engage in certain activities involving personal use of
14 marijuana in limited amounts; providing limits on
15 where persons may engage in specified activities;
16 prohibiting the use of false identification by persons
17 under 21 years of age for specified activities
18 relating to recreational marijuana; providing
19 noncriminal penalties; providing for alternative
20 sentencing; providing for licensure of marijuana
21 establishments that may engage in the manufacture,
22 possession, or purchase of marijuana, marijuana
23 products, and marijuana accessories or sell marijuana,
24 marijuana products, or marijuana accessories to a
25 consumer; specifying duties of the Division of

26 | Alcoholic Beverages, Marijuana, and Tobacco; providing
27 | for enforcement of regulatory provisions; authorizing
28 | agreements with other entities for certain enforcement
29 | activities; requiring an annual report; providing for
30 | licensing of marijuana establishments; providing for a
31 | licensing process; providing limits on the number of
32 | retail marijuana stores in localities based on
33 | population; providing standards for prospective
34 | licensees; providing restrictions on the location of
35 | marijuana establishments; prohibiting certain
36 | activities by marijuana establishments; providing
37 | procedures when a marijuana establishment's license
38 | expires; authorizing localities to prohibit one or
39 | more types of marijuana establishments through local
40 | ordinance; providing for submission of applications to
41 | localities if the division has not issued
42 | establishment licenses by a specified date; specifying
43 | duties of the Attorney General concerning federal
44 | subpoenas; providing an exemption from specified
45 | provisions for marijuana research; specifying that the
46 | chapter does not apply to employer drug policies or
47 | operating under the influence laws; specifying that
48 | the chapter does not allow persons under 21 years of
49 | age to engage in activities permitted therein;
50 | providing that the rights of property owners are not

51 affected; authorizing rulemaking; specifying that
52 conduct allowed by the chapter may not be considered
53 the basis for the finding of a lack of good moral
54 character as that term is used in law; providing for
55 emergency rulemaking; amending s. 500.03, F.S.;
56 providing that marijuana establishments that sell food
57 containing marijuana are considered food service
58 establishments for the purposes of specified
59 regulations; creating s. 500.105, F.S.; specifying
60 that food products containing marijuana that are
61 prepared in permitted food establishments and sold by
62 licensed retail marijuana stores are not considered
63 adulterated; amending s. 562.13, F.S.; providing that
64 it is unlawful for marijuana establishments to employ
65 persons under 18 years of age; amending s. 569.0073,
66 F.S.; exempting licensed marijuana establishments from
67 specified provisions regulating the sale of pipes and
68 smoking devices; amending ss. 893.13 and 893.135,
69 F.S.; providing that conduct authorized under chapter
70 566, F.S., is not prohibited by specified controlled
71 substance prohibitions; providing a contingent
72 effective date.

73
74 Be It Enacted by the Legislature of the State of Florida:
75

76 Section 1. Paragraph (b) of subsection (2) of section
 77 20.165, Florida Statutes, is amended to read:

78 20.165 Department of Business and Professional
 79 Regulation.—There is created a Department of Business and
 80 Professional Regulation.

81 (2) The following divisions of the Department of Business
 82 and Professional Regulation are established:

83 (b) Division of Alcoholic Beverages, Marijuana, and
 84 Tobacco.

85 Section 2. Section 561.025, Florida Statutes, is amended
 86 to read:

87 561.025 Alcoholic Beverage, Marijuana, and Tobacco Trust
 88 Fund.—There is created within the State Treasury the Alcoholic
 89 Beverage, Marijuana, and Tobacco Trust Fund. All funds collected
 90 by the division under ss. 210.15, 210.40, or under s. 569.003
 91 and the Beverage Law with the exception of state funds collected
 92 pursuant to ss. 563.05, 564.06, and 565.12 shall be deposited in
 93 the State Treasury to the credit of the trust fund,
 94 notwithstanding any other provision of law to the contrary. In
 95 addition, funds collected by the division under chapter 566
 96 shall be deposited into the trust fund, except that funds from
 97 the excise tax in s. 566.012 shall be distributed as provided in
 98 s. 566.013. Moneys deposited to the credit of the trust fund
 99 shall be used to operate the division and to provide a
 100 proportionate share of the operation of the office of the

101 secretary and the Division of Administration of the Department
102 of Business and Professional Regulation; except that:

103 (1) The revenue transfer provisions of ss. 561.32 and
104 561.342(1) and (2) shall continue in full force and effect, and
105 the division shall cause such revenue to be returned to the
106 municipality or county in the manner provided for in s. 561.32
107 or s. 561.342(1) and (2).~~;~~ and

108 (2) Ten percent of the revenues derived from retail
109 tobacco products dealer permit fees collected under s. 569.003
110 shall be transferred to the Department of Education to provide
111 for teacher training and for research and evaluation to reduce
112 and prevent the use of tobacco products by children.

113 (3) Until January 1, 2028, an amount equal to 5 percent of
114 the revenues received by the division during the previous month
115 pursuant to the tax imposed by s. 566.012 shall be transferred
116 to the Department of Health to be used to provide grants for the
117 purpose of producing peer-reviewed research on marijuana's
118 beneficial uses and safety.

119 Section 3. The Division of Law Revision is directed to
120 prepare a reviser's bill for the 2020 Regular Session of the
121 Legislature to redesignate the Division of Alcoholic Beverages
122 and Tobacco of the Department of Business and Professional
123 Regulation as the "Division of Alcoholic Beverages, Marijuana,
124 and Tobacco" and the Alcoholic Beverage and Tobacco Trust Fund
125 as the "Alcoholic Beverage, Marijuana, and Tobacco Trust Fund,"

126 respectively, wherever those terms appear in the Florida
 127 Statutes.

128 Section 4. Chapter 566, Florida Statutes, consisting of
 129 ss. 566.011-566.042, is created to read:

130 CHAPTER 566

131 RECREATIONAL MARIJUANA

132 PART I

133 EXCISE TAX

134 566.011 Definitions.—As used in this part, the term:

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

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

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

150 (4) "Marijuana cultivation facility" means an entity

151 licensed to cultivate, prepare, and package and sell marijuana
152 to retail marijuana stores, to marijuana product manufacturing
153 facilities, and to other marijuana cultivation facilities, but
154 not to consumers.

155 (5) "Marijuana establishment" means a marijuana
156 cultivation facility, marijuana testing facility, marijuana
157 product manufacturing facility, or retail marijuana store.

158 (6) "Marijuana product manufacturing facility" means an
159 entity licensed to:

160 (a) Purchase marijuana.

161 (b) Manufacture, prepare, and package marijuana products.

162 (c) Sell marijuana and marijuana products to other
163 marijuana product manufacturing facilities and to retail
164 marijuana stores, but not to consumers.

165 (7) "Marijuana products" means concentrated marijuana and
166 products that consist of marijuana and other ingredients and are
167 intended for use or consumption, including, but not limited to,
168 edible products, ointments, and tinctures.

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

171 (9) "Retail marijuana store" means an entity licensed to
172 purchase marijuana from a marijuana cultivation facility and
173 marijuana products from a marijuana product manufacturing
174 facility and to sell marijuana and marijuana products to
175 consumers.

201 (4) "Licensee" means any individual, partnership,
202 corporation, firm, association, or other legal entity holding a
203 marijuana establishment license within the state.

204 (5) "Locality" means a municipality or, in reference to a
205 location in the unorganized territory, the county in which that
206 locality is located.

207 (6) "Marijuana" has the same meaning as provided in s.
208 566.011.

209 (7) "Marijuana accessories" means equipment, products, or
210 materials of any kind that are used, intended, or designed for
211 use in planting, propagating, cultivating, growing, harvesting,
212 composting, manufacturing, compounding, converting, producing,
213 processing, preparing, testing, analyzing, packaging,
214 repackaging, storing, vaporizing, or containing marijuana or for
215 ingesting, inhaling, or otherwise introducing marijuana into the
216 human body.

217 (8) "Marijuana cultivation facility" has the same meaning
218 as provided in s. 566.011.

219 (9) "Marijuana establishment" has the same meaning as
220 provided in s. 566.011.

221 (10) "Marijuana product manufacturing facility" has the
222 same meaning as provided in s. 566.011.

223 (11) "Marijuana testing facility" means an entity licensed
224 to analyze and certify the safety and potency of marijuana.

225 (12) "Minor" means a person under 21 years of age.

226 (13) "Retail marijuana store" has the same meaning as
 227 provided in s. 566.011.

228 (14) "Seedling" means a marijuana plant that has no
 229 flowers, is less than 12 inches in height, and is less than 12
 230 inches in diameter.

231 566.032 Exemption from criminal and noncriminal penalties,
 232 seizure, or forfeiture.—Notwithstanding chapter 893 or any other
 233 provision of law, and except as provided in this part, the
 234 actions specified in this part are legal under the laws of this
 235 state and do not constitute a civil or criminal offense under
 236 the laws of this state or the law of any political subdivision
 237 within this state or serve as a basis for seizure or forfeiture
 238 of assets under state law.

239 566.0311 False identification.—

240 (1) A minor may not present or offer to a marijuana
 241 establishment or the marijuana establishment's agent or employee
 242 any written or oral evidence of age that is false, fraudulent,
 243 or not actually the minor's own for the purpose of:

244 (a) Ordering, purchasing, attempting to purchase or
 245 otherwise procuring or attempting to procure marijuana; or

246 (b) Gaining access to marijuana.

247 (2) (a) A minor who violates subsection (1) commits:

248 1. For a first offense, a noncriminal violation subject to
 249 a civil penalty of at least \$200 and not more than \$400.

250 2. For a second offense, a noncriminal violation subject

251 to a civil penalty of at least \$300 and not more than \$600,
252 which may only be suspended as provided in paragraph (b).

253 3. For a third or subsequent offense, a noncriminal
254 violation subject to a civil penalty of \$600, which may only be
255 suspended as provided in paragraph (b).

256
257 When a minor is adjudged to have committed a first offense under
258 subsection (1), the judge shall inform that minor that the
259 noncriminal penalties for the second and subsequent offenses are
260 mandatory and may only be suspended as provided in paragraph
261 (b). Failure to inform the minor that subsequent noncriminal
262 penalties are mandatory is not a ground for suspension of any
263 subsequent civil penalty.

264 (b) A judge, as an alternative to or in addition to the
265 noncriminal penalties specified in paragraph (a), may assign the
266 minor to perform specified work for the benefit of the state,
267 the municipality, or other public entity or a charitable
268 institution for no more than 40 hours for each violation.

269 566.033 Personal use of marijuana.—

270 (1) A person who is 21 years of age or older may:

271 (a) Use, possess, and transport marijuana accessories and
272 up to 2.5 ounces of marijuana.

273 (b) Transfer or furnish, without remuneration, up to 2.5
274 ounces of marijuana and up to 6 seedlings to a person who is 21
275 years of age or older.

276 (c) Possess, grow, cultivate, process, and transport up to
277 6 marijuana plants, including seedlings, and possess the
278 marijuana produced by the marijuana plants on the premises where
279 the plants were grown.

280 (d) Purchase up to 2.5 ounces of marijuana, up to 6
281 seedlings, and marijuana accessories from a retail marijuana
282 store.

283 (2) The following apply to the cultivation of marijuana
284 for personal use by a person who is 21 years of age or older:

285 (a) A person may cultivate up to 6 marijuana plants,
286 including seedlings, at that person's place of residence, on
287 property owned by that person, or on another person's property
288 with permission of the owner of the other property.

289 (b) A person who elects to cultivate marijuana shall take
290 reasonable precautions to ensure the plants are secure from
291 unauthorized access or access by a person under 21 years of age.
292 Reasonable precautions include, but are not limited to,
293 cultivating marijuana in a fully enclosed secure outdoor area,
294 locked closet, or locked room inaccessible to persons under 21
295 years of age.

296 (3) A person may smoke or ingest marijuana in a nonpublic
297 place, including, but not limited to, a private residence.

298 (a) This subsection does not permit a person to consume
299 marijuana in a manner that endangers others.

300 (b) The prohibitions and limitations on smoking tobacco

301 products in specified areas in part II of chapter 386 apply to
302 marijuana.

303 (c) A person who smokes marijuana in a public place other
304 than as governed by part II of chapter 386 commits a noncriminal
305 violation subject to a civil penalty of \$100.

306 566.034 Marijuana establishments.—

307 (1) A marijuana establishment may engage in the
308 manufacture, possession, and purchase of marijuana, marijuana
309 products, and marijuana accessories and sell marijuana,
310 marijuana products, and marijuana accessories to a consumer as
311 described in this subsection.

312 (a) A retail marijuana store may:

313 1. Possess, display, and transport marijuana, marijuana
314 products, or marijuana accessories.

315 2. Purchase marijuana from a marijuana cultivation
316 facility.

317 3. Purchase marijuana and marijuana products from a
318 marijuana product manufacturing facility.

319 4. Sell marijuana, marijuana products, and marijuana
320 accessories to consumers.

321 (b) A marijuana cultivation facility may:

322 1. Cultivate, harvest, process, package, transport,
323 display, and possess marijuana.

324 2. Deliver or transfer marijuana to a marijuana testing
325 facility.

326 3. Sell marijuana to another marijuana cultivation
327 facility, a marijuana product manufacturing facility, or a
328 retail marijuana store.

329 4. Purchase marijuana from another marijuana cultivation
330 facility.

331 (c) A marijuana product manufacturing facility may:

332 1. Package, process, transport, manufacture, display, and
333 possess marijuana or marijuana products.

334 2. Deliver or transfer marijuana or marijuana products to
335 a marijuana testing facility.

336 3. Sell marijuana and marijuana products to a retail
337 marijuana store or marijuana product manufacturing facility.

338 4. Purchase marijuana from a marijuana cultivation
339 facility.

340 5. Purchase marijuana and marijuana products from a
341 marijuana product manufacturing facility.

342 (d) A marijuana testing facility may possess, cultivate,
343 process, repackage, store, transport, display, transfer, and
344 deliver marijuana or marijuana products.

345
346 A marijuana establishment may lease or otherwise allow the use
347 of property owned, occupied, or controlled by a person,
348 corporation, or other entity for any of the activities conducted
349 lawfully in accordance with this subsection.

350 (2) This section does not prevent the imposition of

351 penalties for violating this chapter or state or local rules
352 adopted pursuant to this chapter.

353 566.035 Duties of the division.—The division shall:

354 (1) Enforce the laws and rules relating to the
355 manufacturing, processing, labeling, storing, transporting,
356 testing, and selling of marijuana by marijuana establishments
357 and administer those laws relating to licensing and the
358 collection of taxes.

359 (2) Adopt rules consistent with this chapter for the
360 administration and enforcement of laws regulating and licensing
361 marijuana establishments.

362 (3) If determined necessary by the division, enter into a
363 memorandum of understanding with the Department of Law
364 Enforcement, a county sheriff, or other state or municipal law
365 enforcement agency to perform inspections of marijuana
366 establishments.

367 (4) Issue marijuana cultivation facility, marijuana
368 testing facility, marijuana product manufacturing facility, and
369 retail marijuana store licenses.

370 (5) Prevent the sale of marijuana by licensees to minors
371 and intoxicated persons.

372 (6) Ensure that licensees have access to the provisions of
373 this chapter and other laws and rules governing marijuana in
374 accordance with this section.

375 (7) Post on the department's publicly accessible website

376 this chapter and all rules adopted under this chapter. The
377 division shall notify all licensees of changes in the law and
378 rules through a publicly accessible website posting within 90
379 days after adjournment of each session of the Legislature. The
380 division shall update the posting on the department's publicly
381 accessible website to reflect new laws and rules before the
382 effective date of the laws and rules.

383 (8) Certify monthly to the Chief Financial Officer a
384 complete statement of revenues and expenses for licenses issued
385 and for revenues collected by the division and submit an annual
386 report that includes a complete statement of the revenues and
387 expenses for the division to the Governor, the Speaker of the
388 House of Representatives, and the President of the Senate.

389 (9) Suspend or revoke the license of a licensee in
390 accordance with rules adopted by the division. A marijuana
391 establishment with a license that is suspended or revoked
392 pursuant to this subsection may:

393 (a) Continue to possess marijuana during the time its
394 license is suspended, but may not dispense, transfer, or sell
395 marijuana. If the marijuana establishment is a marijuana
396 cultivation facility, it may continue to cultivate marijuana
397 plants during the time its license is suspended. Marijuana may
398 not be removed from the licensed premises except as authorized
399 by the division and only for the purpose of destruction.

400 (b) Possess marijuana for up to 7 days after revocation of

401 its license, during which time the marijuana establishment shall
402 dispose of its inventory of marijuana in accordance with
403 division rules.

404 (10) Beginning January 15, 2020, and annually thereafter,
405 report to the committees of each house of the Legislature having
406 jurisdiction over marijuana regulation. The report must include,
407 but is not limited to, all rules adopted by the division and
408 statistics regarding the number of marijuana establishment
409 applications received, and licensed and the licensing fees
410 collected within the previous year.

411 566.036 Licensing of marijuana establishments.-

412 (1) An applicant for a marijuana establishment license
413 shall file an application in the form required by the division
414 for the type of marijuana establishment license sought. An
415 applicant may apply for and be granted more than one type of
416 marijuana establishment license, except that a person licensed
417 as a marijuana testing facility may not hold another marijuana
418 establishment license. The division shall begin accepting and
419 processing applications by August 1, 2020.

420 (2) Upon receiving an application for a marijuana
421 establishment license, the division shall immediately forward a
422 copy of the application and 50 percent of the license
423 application fee to the locality in which the applicant desires
424 to operate.

425 (3) The division shall issue or renew a license to operate

426 a marijuana establishment to an applicant who meets the
427 requirements of the division as set forth in rule and in
428 subsection (9) within 90 days after the date of receipt of the
429 application unless:

430 (a) The division finds the applicant is not in compliance
431 with this section or rules adopted by the division;

432 (b) The division is notified by the relevant locality that
433 the applicant is not in compliance with an ordinance, rule, or
434 regulation in effect at the time of application; or

435 (c) The number of marijuana establishments allowed in the
436 locality has been limited under s. 566.037 or is limited by
437 subsection (5) and the division has already licensed the maximum
438 number of marijuana establishments allowed in the locality for
439 the category of license that is sought.

440 (4) The following shall control when more than one
441 application is received by the division for establishment of a
442 marijuana establishment in the same locality:

443 (a) If a greater number of applications are received from
444 qualified applicants to operate a marijuana establishment in a
445 locality than are allowed under the limits enacted by the
446 locality under s. 566.037 or subsection (5), the division shall
447 solicit and consider input from the locality regarding the
448 locality's preference or preferences for licensure. Within 90
449 days after the date that the first application is received, the
450 division shall issue the maximum number of applicable licenses

451 for each type of marijuana establishment license application
452 received.

453 (b) In a competitive application process to determine
454 which applicants will receive licenses, the division shall give
455 preference to an applicant who has at least 1 year of previous
456 experience in operating another business in this state in
457 compliance with state law.

458 (c) The division may not grant a license to a licensee who
459 has already received a license to operate the same type of
460 marijuana establishment if doing so would prevent another
461 qualified applicant from receiving a license.

462 (5) Unless the locality has prohibited retail marijuana
463 stores or has enacted a lower limit on the number of retail
464 marijuana stores, the division shall license no more than:

465 (a) One retail marijuana store per each 5,000 persons in a
466 locality with a population over 20,000.

467 (b) Two retail marijuana stores in a locality with a
468 population of at least 5,001 but less than 20,000.

469 (c) One retail marijuana store in a locality with a
470 population of at least 2,000 but less than 5,001.

471
472 The division may license one retail marijuana store in a
473 locality where the population is less than 2,000 if the locality
474 has not prohibited retail marijuana stores. The division may
475 grant a locality's request to allow additional marijuana stores.

476 The division may consider the impact of seasonal population or
477 tourism and other related information provided by the locality
478 requesting an additional marijuana establishment location.

479 (6) Upon denial of an application, the division shall
480 notify the applicant in writing of the specific reason for the
481 denial.

482 (7) All licenses under this part are valid for 1 year
483 after the date of issuance.

484 (8) A prospective licensee as a marijuana establishment:

485 (a) May not have been convicted of a disqualifying drug
486 offense. For purposes of this section, "disqualifying drug
487 offense" means a conviction for a violation of a state or
488 federal controlled substance law that is a crime punishable by
489 imprisonment for 1 year or more. It does not include an offense
490 for which the sentence, including any term of probation,
491 incarceration, or supervised release, was completed 10 or more
492 years before application for licensure or an offense that
493 consisted of conduct that would be permitted under this part.

494 (b) May not have had a previous license revoked for a
495 marijuana establishment.

496 (c) If the applicant is a corporation, may not be issued a
497 license if any of the principal officers of the corporation
498 would be personally ineligible under paragraph (a) or paragraph

499 (b) .

500 (9) A marijuana establishment:

501 (a) May not be located within 500 feet of the property
502 line of a preexisting public or private school. The distance
503 must be measured from the main entrance of the marijuana
504 establishment to the main entrance of the school by the ordinary
505 course of travel.

506 (b) Shall implement appropriate security measures,
507 consistent with rules issued by the division, which are designed
508 to prevent:

509 1. Unauthorized entrance into areas containing marijuana.

510 2. The theft of marijuana located on the premises or in
511 transit to or from the premises by the licensee.

512 3. Tampering with or adulteration of the marijuana
513 products.

514 4. Unauthorized access to marijuana or marijuana
515 accessories.

516 5. Access to marijuana by or sales of marijuana to minors.

517 (c) Shall prepare and maintain documents that include
518 procedures for the oversight of all aspects of operations and
519 procedures to ensure accurate recordkeeping.

520 (d) Shall make available for inspection its license at the
521 premises to which that license applies. A licensee may not
522 refuse a representative of the division the right at any time to
523 inspect the entire licensed premises or to audit the books and
524 records of the licensee.

525 (e) May not sell marijuana to a person under 21 years of

526 age or to a visibly intoxicated person.

527 (f) If the licensee is a retail marijuana store, it may
528 not allow a minor to enter or remain on the premises unless the
529 minor is an employee of the division, a law enforcement officer,
530 emergency personnel, or a contractor performing work on the
531 facility that is not directly related to marijuana, such as
532 installing or maintaining security devices or performing
533 electrical wiring.

534 (g) May not sell marijuana between the hours of 1 a.m. and
535 6 a.m.

536 (h) May not employ as a manager or leave in charge of the
537 licensed premises any person who, by reason of conviction for a
538 disqualifying drug offense or because of a revocation of that
539 person's marijuana establishment license, is not eligible for a
540 marijuana establishment license.

541 (i) If a retail marijuana store, may not offer any free
542 merchandise, a rebate, or a gift to a consumer.

543 (j) If a retail marijuana store, may only sell or furnish
544 marijuana to a consumer from the premises licensed by the
545 department. A retail marijuana store may not, either directly or
546 indirectly, by any agent or employee, travel from locality to
547 locality, or from place to place within the same locality,
548 selling, bartering, carrying for sale, or exposing for sale
549 marijuana from a vehicle.

550 (10) A person who intentionally provides false information

HB 1117

2019

551 on an application for a marijuana establishment license violates
552 s. 837.06.

553 (11) When a licensee's license expires:

554 (a) A licensee who unintentionally fails to renew a
555 license upon its expiration date and continues to engage in
556 activities allowed by s. 566.034 may not be charged with illegal
557 sales for a period of 7 days after the expiration date. A
558 licensee who continues to make sales of marijuana after having
559 been properly notified of the expired license may be charged
560 with illegally selling marijuana.

561 (b) At least 30 days before expiration of a licensee's
562 license issued under this part, the division shall notify the
563 licensee by the most expedient means available:

- 564 1. That the licensee's license is scheduled to expire.
565 2. The date of expiration.
566 3. That all sales of marijuana must be suspended after the
567 date of expiration and remain suspended until the license is
568 properly renewed.

569
570 Failure by the division to notify a licensee pursuant to this
571 paragraph does not excuse a licensee from being charged with a
572 violation of this part.

573 566.037 Local control.-

574 (1) A locality may prohibit the operation of one or more
575 types of marijuana establishments through the enactment of an

576 ordinance.

577 (2) If a locality does not prohibit the operation of a
578 marijuana establishment pursuant to subsection (1), the
579 following apply:

580 (a) No later than September 1, 2020, a locality may enact
581 an ordinance or regulation specifying the entity within the
582 locality that is responsible for processing applications
583 submitted for a licensee to operate a marijuana establishment
584 within the boundaries of the locality. The locality may provide
585 that the entity may issue such licenses if issuance by the
586 locality becomes necessary because of a failure by the division
587 to adopt rules pursuant to s. 566.035 or because of a failure by
588 the division to process and issue licenses as required by s.
589 566.036.

590 (b) A locality may enact ordinances, rules, or regulations
591 pursuant to this paragraph as long as those ordinances, rules,
592 or regulations do not conflict with this section or with rules
593 issued pursuant to s. 566.035. The ordinances may:

594 1. Govern the time, place, and manner of operations and
595 number of marijuana establishments.

596 2. Establish procedures for the issuance, suspension, and
597 revocation of a license issued by the locality in accordance
598 with paragraph (c) or paragraph (d).

599 3. Establish a schedule of annual operating, licensing,
600 and application fees for a marijuana establishment. This

601 subparagraph applies only if the application fee or licensing
602 fee is submitted to a locality in accordance with paragraph (c)
603 or (d).

604 4. Establish noncriminal penalties for violation of an
605 ordinance, rule, or regulation governing the time, place, and
606 manner that a marijuana establishment may operate in that
607 locality.

608 (c) If the division does not begin issuing licenses by
609 January 1, 2021, an applicant may submit an application directly
610 to the locality in which it wants to operate. A locality that
611 receives an application pursuant to this paragraph shall issue a
612 license to an applicant within 90 days after receipt of the
613 application unless the locality finds, and notifies the
614 applicant, that the applicant is not in compliance with an
615 ordinance, rule, or regulation made pursuant to s. 566.035 or
616 paragraph (b) in effect at the time of application. The locality
617 shall notify the division if the locality issues an annual
618 license to the applicant.

619 (d) If the division does not issue a license to an
620 applicant within 90 days after receipt of the application filed
621 in accordance with s. 566.036 and does not notify the applicant
622 of the specific reason for denial, in writing and within 90 days
623 after receipt of the application, the applicant may resubmit its
624 application directly to the locality and the locality may issue
625 an annual license to the applicant. A locality issuing a license

626 to an applicant shall do so within 90 days after receipt of the
627 resubmitted application unless the locality finds, and notifies
628 the applicant, that the applicant is not in compliance with an
629 ordinance, rule, or regulation made under s. 566.035 or
630 paragraph (b) in effect at the time the application is
631 resubmitted. The locality shall notify the division if the
632 locality issues an annual license to the applicant. If an
633 application is submitted to a locality under this paragraph, the
634 division shall forward to the locality the application fee paid
635 by the applicant to the division upon request by the locality.

636 (e) A license issued by a locality in accordance with
637 paragraph (c) or paragraph (d) has the same effect as a license
638 issued by the division in accordance with s. 566.036 and the
639 holder of that license is not subject to regulation or
640 enforcement by the division during the term of that license. A
641 subsequent or renewed license may be issued under this paragraph
642 on an annual basis if the division has not adopted rules
643 required by s. 566.035 at least 90 days before the date upon
644 which such subsequent or renewed license would be effective, or
645 if the division has adopted rules pursuant to 566.041 but has
646 not, at least 90 days after the adoption of those rules, issued
647 any marijuana establishment licenses pursuant to s. 566.036.

648 566.038 Defense of state law.—The Attorney General shall
649 to the best of the abilities of the office and in good faith
650 advocate to quash any federal subpoena for records involving

651 marijuana establishments.

652 566.039 Research.—Notwithstanding the provisions of this
653 part regulating the distribution of marijuana, a scientific or
654 medical researcher who has previously published peer-reviewed
655 research may purchase, possess, and securely store marijuana for
656 purposes of conducting research. A scientific or medical
657 researcher may administer and distribute marijuana to a
658 participant in research who is at least 21 years of age after
659 receiving informed consent from that participant.

660 566.040 Construction.—

661 (1) EMPLOYMENT POLICIES.—This chapter does not require an
662 employer to permit or accommodate the use, consumption,
663 possession, transfer, display, transportation, sale, or growing
664 of marijuana in the workplace or to affect the ability of
665 employers to have policies restricting the use of marijuana by
666 their employees.

667 (2) OPERATING UNDER THE INFLUENCE.—This chapter does not
668 exempt a person from the laws prohibiting operating any motor
669 vehicle or off-highway vehicle within this state under the
670 influence of alcoholic beverages or controlled substances under
671 chapter 316 or chapter 327.

672 (3) TRANSFER TO MINOR.—This chapter does not permit the
673 transfer of marijuana, with or without remuneration, to a minor
674 or to allow a minor to purchase, possess, use, transport, grow,
675 or consume marijuana.

676 (4) RESTRICTION ON USE OF PROPERTY.—This chapter does not
677 prohibit a person, an employer, a school, a hospital, a
678 detention facility, a corporation, or other entity that
679 occupies, owns, or controls real property from prohibiting or
680 otherwise regulating the possession, consumption, use, display,
681 transfer, distribution, sale, transportation, or growing of
682 marijuana on or in that real property.

683 (5) COMPASSIONATE USE OF LOW-THC CANNABIS.—This chapter
684 does not apply to the compassionate use of low-THC cannabis
685 under s. 381.986.

686 566.041 Rulemaking.—The division shall adopt any rules
687 necessary to administer and enforce the provisions of this
688 chapter.

689 566.042 Good moral character.—Engaging in conduct allowed
690 by this chapter may not be the basis for a finding of a lack of
691 good moral character as that term is used in the Florida
692 Statutes.

693 Section 5. Section 566.037, Florida Statutes, as created by
694 this act, which relates to local control, shall take effect upon
695 this act becoming a law.

696 Section 6. Rulemaking.—This section shall take effect upon
697 this act becoming a law.

698 (1) By June 1, 2020, the Division of Alcoholic Beverages,
699 Marijuana, and Tobacco of the Department of Business and
700 Professional Regulation shall adopt emergency rules for the

701 administration and the enforcement of laws regulating and
702 licensing marijuana establishments pursuant to part II of
703 chapter 566, Florida Statutes, as created by this act. These
704 rules must be developed by the division and may not be
705 contracted out to an entity outside the division. These rules
706 may not prohibit the operation of marijuana establishments,
707 either expressly or through restrictions that make the operation
708 of marijuana establishments unreasonably impracticable. The
709 emergency rules shall remain in effect for 6 months after
710 adoption and may be renewed during the pendency of procedures to
711 adopt rules addressing the subject of the emergency rules. As
712 used in this section, "unreasonably impracticable" means that
713 the measures necessary to comply with the rules require such a
714 high investment of risk, money, time, or other resource or asset
715 that the operation of a marijuana establishment is not worthy of
716 being carried out in practice by a reasonably prudent
717 businessperson.

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

719 (a) Provisions for administering and enforcing part II of
720 chapter 566, Florida Statutes, including oversight requirements
721 and noncriminal penalties for violations.

722 (b) The form and content of applications for each type of
723 marijuana establishment license, registration renewal forms, and
724 associated licensing and renewal fee schedules, except that an
725 application, licensing, or renewal fee may not exceed \$5,000.

726 (c) Procedures allowing an applicant who has been denied a
727 license due to failure to meet the requirements for licensing to
728 correct the reason for failure.

729 (d) Procedures and timelines for background checks and
730 appeals.

731 (e) Rules governing the transfer of a license, which must
732 be substantially the same as rules governing the transfer of a
733 beverage license under chapter 561, Florida Statutes.

734 (f) Minimum standards for employment, including
735 requirements for background checks, restrictions against hiring
736 persons under 21 years of age, and safeguards to protect against
737 unauthorized employee access to marijuana.

738 (g) Minimum recordkeeping requirements, including the
739 recording of the disposal of marijuana that is not sold. Rules
740 developed pursuant to this subsection may not require a consumer
741 to provide a retail marijuana store with personal information
742 other than government-issued identification to determine the
743 consumer's age or require the retail marijuana store to acquire
744 and record personal information about its consumers.

745 (h) Health and safety rules and standards for the
746 manufacture of marijuana products and the cultivation of
747 marijuana.

748 (i) Labeling requirements for marijuana and marijuana
749 products sold or distributed by a marijuana establishment.

750 (j) Restrictions on the advertising, signage, and display

751 of marijuana and marijuana products.

752 (k) Minimum security requirements, including standards to
753 reasonably protect against unauthorized access to marijuana at
754 all stages of the licensee's possession, transportation,
755 storage, and cultivation of marijuana. Such security
756 requirements may not prohibit outdoor cultivation in an
757 enclosed, secured space.

758 (l) Procedures for enforcing s. 566.036(9) and (10),
759 Florida Statutes, including noncriminal penalties for
760 violations, procedures for suspending or terminating the license
761 of a licensee who violates licensing provisions or the rules
762 adopted pursuant to this section, and procedures for appeals of
763 penalties or licensing actions.

764 (m) Any other oversight requirements that the division
765 determines are necessary to administer the laws relating to
766 licensing marijuana establishments.

767 (3) Rules adopted pursuant to this section may not
768 prohibit a locality, as defined in s. 566.031, Florida Statutes,
769 from limiting the number of each type of licensee who may
770 operate in the locality or from enacting reasonable regulations
771 applicable to licensees.

772 Section 7. Paragraph (p) of subsection (1) of section
773 500.03, Florida Statutes, is amended to read:

774 500.03 Definitions; construction; applicability.—

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

HB 1117

2019

776 (p) "Food establishment" means a factory, food outlet, or
777 other facility manufacturing, processing, packing, holding, or
778 preparing food or selling food at wholesale or retail. The term
779 does not include a business or activity that is regulated under
780 s. 413.051, s. 500.80, chapter 509, or chapter 601. The term
781 includes a retail marijuana store that sells food containing
782 marijuana pursuant to chapter 566. The term includes tomato
783 packinghouses and repackers but does not include any other
784 establishments that pack fruits and vegetables in their raw or
785 natural states, including those fruits or vegetables that are
786 washed, colored, or otherwise treated in their unpeeled, natural
787 form before they are marketed.

788 Section 8. Section 500.105, Florida Statutes, is created
789 to read:

790 500.105 Retail marijuana store food products containing
791 marijuana.—Food products containing marijuana that are prepared
792 in a food establishment that holds a permit under s. 500.12, if
793 required, and that are sold by a retail marijuana store licensed
794 under chapter 566 are not considered adulterated under this
795 chapter due to the presence of marijuana.

796 Section 9. Subsection (1) of section 562.13, Florida
797 Statutes, is amended to read:

798 562.13 Employment of minors or certain other persons by
799 certain vendors prohibited; exceptions.—

800 (1) Unless otherwise provided in this section, it is

HB 1117

2019

801 unlawful for any vendor licensed under the Beverage Law or a
802 licensee under chapter 566 to employ any person under 18 years
803 of age.

804 Section 10. Subsection (1) of section 569.0073, Florida
805 Statutes, is amended to read:

806 569.0073 Special provisions; smoking pipes and smoking
807 devices.—

808 (1) It is unlawful for any person to offer for sale at
809 retail any of the items listed in subsection (2) unless such
810 person:

811 (a) Has a retail tobacco products dealer permit under s.
812 569.003 or is a marijuana establishment licensed under s.
813 566.036. The provisions of this chapter apply to any person that
814 offers for retail sale any of the items listed in subsection
815 (2); and

816 (b)1. Derives at least 75 percent of its annual gross
817 revenues from the retail sale of cigarettes, cigars, and other
818 tobacco products or marijuana products sold in compliance with
819 chapter 566; or

820 2. Derives no more than 25 percent of its annual gross
821 revenues from the retail sale of the items listed in subsection
822 (2).

823 Section 11. Subsection (10) of section 893.13, Florida
824 Statutes, is renumbered as subsection (11), and a new subsection
825 (10) is added to that section, to read:

826 893.13 Prohibited acts; penalties.—

827 (10) Subsections (1)-(8) are not applicable to conduct
 828 authorized under chapter 566.

829 Section 12. Subsection (1) of section 893.135, Florida
 830 Statutes, is amended to read:

831 893.135 Trafficking; mandatory sentences; suspension or
 832 reduction of sentences; conspiracy to engage in trafficking.—

833 (1) Except as authorized in this chapter, ~~or in~~ chapter
 834 499, or chapter 566 and notwithstanding ~~the provisions of s.~~
 835 893.13:

836 (a) Any person who knowingly sells, purchases,
 837 manufactures, delivers, or brings into this state, or who is
 838 knowingly in actual or constructive possession of, in excess of
 839 25 pounds of cannabis, or 300 or more cannabis plants, commits a
 840 felony of the first degree, which felony shall be known as
 841 "trafficking in cannabis," punishable as provided in s. 775.082,
 842 s. 775.083, or s. 775.084. If the quantity of cannabis involved:

843 1. Is in excess of 25 pounds, but less than 2,000 pounds,
 844 or is 300 or more cannabis plants, but not more than 2,000
 845 cannabis plants, such person shall be sentenced to a mandatory
 846 minimum term of imprisonment of 3 years, and the defendant shall
 847 be ordered to pay a fine of \$25,000.

848 2. Is 2,000 pounds or more, but less than 10,000 pounds,
 849 or is 2,000 or more cannabis plants, but not more than 10,000
 850 cannabis plants, such person shall be sentenced to a mandatory

851 minimum term of imprisonment of 7 years, and the defendant shall
852 be ordered to pay a fine of \$50,000.

853 3. Is 10,000 pounds or more, or is 10,000 or more cannabis
854 plants, such person shall be sentenced to a mandatory minimum
855 term of imprisonment of 15 calendar years and pay a fine of
856 \$200,000.

857

858 For the purpose of this paragraph, a plant, including, but not
859 limited to, a seedling or cutting, is a "cannabis plant" if it
860 has some readily observable evidence of root formation, such as
861 root hairs. To determine if a piece or part of a cannabis plant
862 severed from the cannabis plant is itself a cannabis plant, the
863 severed piece or part must have some readily observable evidence
864 of root formation, such as root hairs. Callous tissue is not
865 readily observable evidence of root formation. The viability and
866 sex of a plant and the fact that the plant may or may not be a
867 dead harvested plant are not relevant in determining if the
868 plant is a "cannabis plant" or in the charging of an offense
869 under this paragraph. Upon conviction, the court shall impose
870 the longest term of imprisonment provided for in this paragraph.

871 (b)1. Any person who knowingly sells, purchases,
872 manufactures, delivers, or brings into this state, or who is
873 knowingly in actual or constructive possession of, 28 grams or
874 more of cocaine, as described in s. 893.03(2)(a)4., or of any
875 mixture containing cocaine, but less than 150 kilograms of

HB 1117

2019

876 cocaine or any such mixture, commits a felony of the first
877 degree, which felony shall be known as "trafficking in cocaine,"
878 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
879 If the quantity involved:

880 a. Is 28 grams or more, but less than 200 grams, such
881 person shall be sentenced to a mandatory minimum term of
882 imprisonment of 3 years, and the defendant shall be ordered to
883 pay a fine of \$50,000.

884 b. Is 200 grams or more, but less than 400 grams, such
885 person shall be sentenced to a mandatory minimum term of
886 imprisonment of 7 years, and the defendant shall be ordered to
887 pay a fine of \$100,000.

888 c. Is 400 grams or more, but less than 150 kilograms, such
889 person shall be sentenced to a mandatory minimum term of
890 imprisonment of 15 calendar years and pay a fine of \$250,000.

891 2. Any person who knowingly sells, purchases,
892 manufactures, delivers, or brings into this state, or who is
893 knowingly in actual or constructive possession of, 150 kilograms
894 or more of cocaine, as described in s. 893.03(2)(a)4., commits
895 the first degree felony of trafficking in cocaine. A person who
896 has been convicted of the first degree felony of trafficking in
897 cocaine under this subparagraph shall be punished by life
898 imprisonment and is ineligible for any form of discretionary
899 early release except pardon or executive clemency or conditional
900 medical release under s. 947.149. However, if the court

901 determines that, in addition to committing any act specified in
902 this paragraph:

903 a. The person intentionally killed an individual or
904 counseled, commanded, induced, procured, or caused the
905 intentional killing of an individual and such killing was the
906 result; or

907 b. The person's conduct in committing that act led to a
908 natural, though not inevitable, lethal result,

909

910 such person commits the capital felony of trafficking in
911 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
912 person sentenced for a capital felony under this paragraph shall
913 also be sentenced to pay the maximum fine provided under
914 subparagraph 1.

915 3. Any person who knowingly brings into this state 300
916 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
917 and who knows that the probable result of such importation would
918 be the death of any person, commits capital importation of
919 cocaine, a capital felony punishable as provided in ss. 775.082
920 and 921.142. Any person sentenced for a capital felony under
921 this paragraph shall also be sentenced to pay the maximum fine
922 provided under subparagraph 1.

923 (c)1. A person who knowingly sells, purchases,
924 manufactures, delivers, or brings into this state, or who is
925 knowingly in actual or constructive possession of, 4 grams or

HB 1117

2019

926 more of any morphine, opium, hydromorphone, or any salt,
927 derivative, isomer, or salt of an isomer thereof, including
928 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
929 (3)(c)4., or 4 grams or more of any mixture containing any such
930 substance, but less than 30 kilograms of such substance or
931 mixture, commits a felony of the first degree, which felony
932 shall be known as "trafficking in illegal drugs," punishable as
933 provided in s. 775.082, s. 775.083, or s. 775.084. If the
934 quantity involved:

935 a. Is 4 grams or more, but less than 14 grams, such person
936 shall be sentenced to a mandatory minimum term of imprisonment
937 of 3 years and shall be ordered to pay a fine of \$50,000.

938 b. Is 14 grams or more, but less than 28 grams, such
939 person shall be sentenced to a mandatory minimum term of
940 imprisonment of 15 years and shall be ordered to pay a fine of
941 \$100,000.

942 c. Is 28 grams or more, but less than 30 kilograms, such
943 person shall be sentenced to a mandatory minimum term of
944 imprisonment of 25 years and shall be ordered to pay a fine of
945 \$500,000.

946 2. A person who knowingly sells, purchases, manufactures,
947 delivers, or brings into this state, or who is knowingly in
948 actual or constructive possession of, 14 grams or more of
949 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
950 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14

HB 1117

2019

951 grams or more of any mixture containing any such substance,
952 commits a felony of the first degree, which felony shall be
953 known as "trafficking in hydrocodone," punishable as provided in
954 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

955 a. Is 14 grams or more, but less than 28 grams, such
956 person shall be sentenced to a mandatory minimum term of
957 imprisonment of 3 years and shall be ordered to pay a fine of
958 \$50,000.

959 b. Is 28 grams or more, but less than 50 grams, such
960 person shall be sentenced to a mandatory minimum term of
961 imprisonment of 7 years and shall be ordered to pay a fine of
962 \$100,000.

963 c. Is 50 grams or more, but less than 200 grams, such
964 person shall be sentenced to a mandatory minimum term of
965 imprisonment of 15 years and shall be ordered to pay a fine of
966 \$500,000.

967 d. Is 200 grams or more, but less than 30 kilograms, such
968 person shall be sentenced to a mandatory minimum term of
969 imprisonment of 25 years and shall be ordered to pay a fine of
970 \$750,000.

971 3. A person who knowingly sells, purchases, manufactures,
972 delivers, or brings into this state, or who is knowingly in
973 actual or constructive possession of, 7 grams or more of
974 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
975 thereof, or 7 grams or more of any mixture containing any such

976 substance, commits a felony of the first degree, which felony
 977 shall be known as "trafficking in oxycodone," punishable as
 978 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 979 quantity involved:

980 a. Is 7 grams or more, but less than 14 grams, such person
 981 shall be sentenced to a mandatory minimum term of imprisonment
 982 of 3 years and shall be ordered to pay a fine of \$50,000.

983 b. Is 14 grams or more, but less than 25 grams, such
 984 person shall be sentenced to a mandatory minimum term of
 985 imprisonment of 7 years and shall be ordered to pay a fine of
 986 \$100,000.

987 c. Is 25 grams or more, but less than 100 grams, such
 988 person shall be sentenced to a mandatory minimum term of
 989 imprisonment of 15 years and shall be ordered to pay a fine of
 990 \$500,000.

991 d. Is 100 grams or more, but less than 30 kilograms, such
 992 person shall be sentenced to a mandatory minimum term of
 993 imprisonment of 25 years and shall be ordered to pay a fine of
 994 \$750,000.

995 4.a. A person who knowingly sells, purchases,
 996 manufactures, delivers, or brings into this state, or who is
 997 knowingly in actual or constructive possession of, 4 grams or
 998 more of:

999 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

1000 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

HB 1117

2019

1001 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

1002 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

1003 (V) A fentanyl derivative, as described in s.

1004 893.03(1)(a)62.;

1005 (VI) A controlled substance analog, as described in s.

1006 893.0356, of any substance described in sub-sub-subparagraphs

1007 (I)-(V); or

1008 (VII) A mixture containing any substance described in sub-

1009 sub-subparagraphs (I)-(VI),

1010

1011 commits a felony of the first degree, which felony shall be

1012 known as "trafficking in fentanyl," punishable as provided in s.

1013 775.082, s. 775.083, or s. 775.084.

1014 b. If the quantity involved under sub-subparagraph a.:

1015 (I) Is 4 grams or more, but less than 14 grams, such

1016 person shall be sentenced to a mandatory minimum term of

1017 imprisonment of 3 years, and shall be ordered to pay a fine of

1018 \$50,000.

1019 (II) Is 14 grams or more, but less than 28 grams, such

1020 person shall be sentenced to a mandatory minimum term of

1021 imprisonment of 15 years, and shall be ordered to pay a fine of

1022 \$100,000.

1023 (III) Is 28 grams or more, such person shall be sentenced

1024 to a mandatory minimum term of imprisonment of 25 years, and

1025 shall be ordered to pay a fine of \$500,000.

1026 5. A person who knowingly sells, purchases, manufactures,
 1027 delivers, or brings into this state, or who is knowingly in
 1028 actual or constructive possession of, 30 kilograms or more of
 1029 any morphine, opium, oxycodone, hydrocodone, codeine,
 1030 hydromorphone, or any salt, derivative, isomer, or salt of an
 1031 isomer thereof, including heroin, as described in s.
 1032 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
 1033 more of any mixture containing any such substance, commits the
 1034 first degree felony of trafficking in illegal drugs. A person
 1035 who has been convicted of the first degree felony of trafficking
 1036 in illegal drugs under this subparagraph shall be punished by
 1037 life imprisonment and is ineligible for any form of
 1038 discretionary early release except pardon or executive clemency
 1039 or conditional medical release under s. 947.149. However, if the
 1040 court determines that, in addition to committing any act
 1041 specified in this paragraph:

1042 a. The person intentionally killed an individual or
 1043 counseled, commanded, induced, procured, or caused the
 1044 intentional killing of an individual and such killing was the
 1045 result; or

1046 b. The person's conduct in committing that act led to a
 1047 natural, though not inevitable, lethal result,
 1048
 1049 such person commits the capital felony of trafficking in illegal
 1050 drugs, punishable as provided in ss. 775.082 and 921.142. A

1051 person sentenced for a capital felony under this paragraph shall
 1052 also be sentenced to pay the maximum fine provided under
 1053 subparagraph 1.

1054 6. A person who knowingly brings into this state 60
 1055 kilograms or more of any morphine, opium, oxycodone,
 1056 hydrocodone, codeine, hydromorphone, or any salt, derivative,
 1057 isomer, or salt of an isomer thereof, including heroin, as
 1058 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
 1059 60 kilograms or more of any mixture containing any such
 1060 substance, and who knows that the probable result of such
 1061 importation would be the death of a person, commits capital
 1062 importation of illegal drugs, a capital felony punishable as
 1063 provided in ss. 775.082 and 921.142. A person sentenced for a
 1064 capital felony under this paragraph shall also be sentenced to
 1065 pay the maximum fine provided under subparagraph 1.

1066 (d)1. Any person who knowingly sells, purchases,
 1067 manufactures, delivers, or brings into this state, or who is
 1068 knowingly in actual or constructive possession of, 28 grams or
 1069 more of phencyclidine, as described in s. 893.03(2)(b)23., a
 1070 substituted phenylcyclohexylamine, as described in s.
 1071 893.03(1)(c)195., or a substance described in s.
 1072 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
 1073 containing phencyclidine, as described in s. 893.03(2)(b)23., a
 1074 substituted phenylcyclohexylamine, as described in s.
 1075 893.03(1)(c)195., or a substance described in s.

HB 1117

2019

1076 893.03(1)(c)13., 32., 38., 103., or 146., commits a felony of
1077 the first degree, which felony shall be known as "trafficking in
1078 phencyclidine," punishable as provided in s. 775.082, s.
1079 775.083, or s. 775.084. If the quantity involved:

1080 a. Is 28 grams or more, but less than 200 grams, such
1081 person shall be sentenced to a mandatory minimum term of
1082 imprisonment of 3 years, and the defendant shall be ordered to
1083 pay a fine of \$50,000.

1084 b. Is 200 grams or more, but less than 400 grams, such
1085 person shall be sentenced to a mandatory minimum term of
1086 imprisonment of 7 years, and the defendant shall be ordered to
1087 pay a fine of \$100,000.

1088 c. Is 400 grams or more, such person shall be sentenced to
1089 a mandatory minimum term of imprisonment of 15 calendar years
1090 and pay a fine of \$250,000.

1091 2. Any person who knowingly brings into this state 800
1092 grams or more of phencyclidine, as described in s.
1093 893.03(2)(b)23., a substituted phenylcyclohexylamine, as
1094 described in s. 893.03(1)(c)195., or a substance described in s.
1095 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
1096 containing phencyclidine, as described in s. 893.03(2)(b)23., a
1097 substituted phenylcyclohexylamine, as described in s.
1098 893.03(1)(c)195., or a substance described in s.
1099 893.03(1)(c)13., 32., 38., 103., or 146., and who knows that the
1100 probable result of such importation would be the death of any

HB 1117

2019

1101 person commits capital importation of phencyclidine, a capital
1102 felony punishable as provided in ss. 775.082 and 921.142. Any
1103 person sentenced for a capital felony under this paragraph shall
1104 also be sentenced to pay the maximum fine provided under
1105 subparagraph 1.

1106 (e)1. Any person who knowingly sells, purchases,
1107 manufactures, delivers, or brings into this state, or who is
1108 knowingly in actual or constructive possession of, 200 grams or
1109 more of methaqualone or of any mixture containing methaqualone,
1110 as described in s. 893.03(1)(d), commits a felony of the first
1111 degree, which felony shall be known as "trafficking in
1112 methaqualone," punishable as provided in s. 775.082, s. 775.083,
1113 or s. 775.084. If the quantity involved:

1114 a. Is 200 grams or more, but less than 5 kilograms, such
1115 person shall be sentenced to a mandatory minimum term of
1116 imprisonment of 3 years, and the defendant shall be ordered to
1117 pay a fine of \$50,000.

1118 b. Is 5 kilograms or more, but less than 25 kilograms,
1119 such person shall be sentenced to a mandatory minimum term of
1120 imprisonment of 7 years, and the defendant shall be ordered to
1121 pay a fine of \$100,000.

1122 c. Is 25 kilograms or more, such person shall be sentenced
1123 to a mandatory minimum term of imprisonment of 15 calendar years
1124 and pay a fine of \$250,000.

1125 2. Any person who knowingly brings into this state 50

1126 kilograms or more of methaqualone or of any mixture containing
 1127 methaqualone, as described in s. 893.03(1)(d), and who knows
 1128 that the probable result of such importation would be the death
 1129 of any person commits capital importation of methaqualone, a
 1130 capital felony punishable as provided in ss. 775.082 and
 1131 921.142. Any person sentenced for a capital felony under this
 1132 paragraph shall also be sentenced to pay the maximum fine
 1133 provided under subparagraph 1.

1134 (f)1. Any person who knowingly sells, purchases,
 1135 manufactures, delivers, or brings into this state, or who is
 1136 knowingly in actual or constructive possession of, 14 grams or
 1137 more of amphetamine, as described in s. 893.03(2)(c)2., or
 1138 methamphetamine, as described in s. 893.03(2)(c)5., or of any
 1139 mixture containing amphetamine or methamphetamine, or
 1140 phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine
 1141 in conjunction with other chemicals and equipment utilized in
 1142 the manufacture of amphetamine or methamphetamine, commits a
 1143 felony of the first degree, which felony shall be known as
 1144 "trafficking in amphetamine," punishable as provided in s.
 1145 775.082, s. 775.083, or s. 775.084. If the quantity involved:

1146 a. Is 14 grams or more, but less than 28 grams, such
 1147 person shall be sentenced to a mandatory minimum term of
 1148 imprisonment of 3 years, and the defendant shall be ordered to
 1149 pay a fine of \$50,000.

1150 b. Is 28 grams or more, but less than 200 grams, such

1151 person shall be sentenced to a mandatory minimum term of
 1152 imprisonment of 7 years, and the defendant shall be ordered to
 1153 pay a fine of \$100,000.

1154 c. Is 200 grams or more, such person shall be sentenced to
 1155 a mandatory minimum term of imprisonment of 15 calendar years
 1156 and pay a fine of \$250,000.

1157 2. Any person who knowingly manufactures or brings into
 1158 this state 400 grams or more of amphetamine, as described in s.
 1159 893.03(2)(c)2., or methamphetamine, as described in s.
 1160 893.03(2)(c)5., or of any mixture containing amphetamine or
 1161 methamphetamine, or phenylacetone, phenylacetic acid,
 1162 pseudoephedrine, or ephedrine in conjunction with other
 1163 chemicals and equipment used in the manufacture of amphetamine
 1164 or methamphetamine, and who knows that the probable result of
 1165 such manufacture or importation would be the death of any person
 1166 commits capital manufacture or importation of amphetamine, a
 1167 capital felony punishable as provided in ss. 775.082 and
 1168 921.142. Any person sentenced for a capital felony under this
 1169 paragraph shall also be sentenced to pay the maximum fine
 1170 provided under subparagraph 1.

1171 (g)1. Any person who knowingly sells, purchases,
 1172 manufactures, delivers, or brings into this state, or who is
 1173 knowingly in actual or constructive possession of, 4 grams or
 1174 more of flunitrazepam or any mixture containing flunitrazepam as
 1175 described in s. 893.03(1)(a) commits a felony of the first

HB 1117

2019

1176 degree, which felony shall be known as "trafficking in
1177 flunitrazepam," punishable as provided in s. 775.082, s.
1178 775.083, or s. 775.084. If the quantity involved:

1179 a. Is 4 grams or more but less than 14 grams, such person
1180 shall be sentenced to a mandatory minimum term of imprisonment
1181 of 3 years, and the defendant shall be ordered to pay a fine of
1182 \$50,000.

1183 b. Is 14 grams or more but less than 28 grams, such person
1184 shall be sentenced to a mandatory minimum term of imprisonment
1185 of 7 years, and the defendant shall be ordered to pay a fine of
1186 \$100,000.

1187 c. Is 28 grams or more but less than 30 kilograms, such
1188 person shall be sentenced to a mandatory minimum term of
1189 imprisonment of 25 calendar years and pay a fine of \$500,000.

1190 2. Any person who knowingly sells, purchases,
1191 manufactures, delivers, or brings into this state or who is
1192 knowingly in actual or constructive possession of 30 kilograms
1193 or more of flunitrazepam or any mixture containing flunitrazepam
1194 as described in s. 893.03(1)(a) commits the first degree felony
1195 of trafficking in flunitrazepam. A person who has been convicted
1196 of the first degree felony of trafficking in flunitrazepam under
1197 this subparagraph shall be punished by life imprisonment and is
1198 ineligible for any form of discretionary early release except
1199 pardon or executive clemency or conditional medical release
1200 under s. 947.149. However, if the court determines that, in

1201 addition to committing any act specified in this paragraph:

1202 a. The person intentionally killed an individual or
 1203 counseled, commanded, induced, procured, or caused the
 1204 intentional killing of an individual and such killing was the
 1205 result; or

1206 b. The person's conduct in committing that act led to a
 1207 natural, though not inevitable, lethal result,

1208
 1209 such person commits the capital felony of trafficking in
 1210 flunitrazepam, punishable as provided in ss. 775.082 and
 1211 921.142. Any person sentenced for a capital felony under this
 1212 paragraph shall also be sentenced to pay the maximum fine
 1213 provided under subparagraph 1.

1214 (h)1. Any person who knowingly sells, purchases,
 1215 manufactures, delivers, or brings into this state, or who is
 1216 knowingly in actual or constructive possession of, 1 kilogram or
 1217 more of gamma-hydroxybutyric acid (GHB), as described in s.
 1218 893.03(1)(d), or any mixture containing gamma-hydroxybutyric
 1219 acid (GHB), commits a felony of the first degree, which felony
 1220 shall be known as "trafficking in gamma-hydroxybutyric acid
 1221 (GHB)," punishable as provided in s. 775.082, s. 775.083, or s.
 1222 775.084. If the quantity involved:

1223 a. Is 1 kilogram or more but less than 5 kilograms, such
 1224 person shall be sentenced to a mandatory minimum term of
 1225 imprisonment of 3 years, and the defendant shall be ordered to

HB 1117

2019

1226 | pay a fine of \$50,000.

1227 | b. Is 5 kilograms or more but less than 10 kilograms, such
1228 | person shall be sentenced to a mandatory minimum term of
1229 | imprisonment of 7 years, and the defendant shall be ordered to
1230 | pay a fine of \$100,000.

1231 | c. Is 10 kilograms or more, such person shall be sentenced
1232 | to a mandatory minimum term of imprisonment of 15 calendar years
1233 | and pay a fine of \$250,000.

1234 | 2. Any person who knowingly manufactures or brings into
1235 | this state 150 kilograms or more of gamma-hydroxybutyric acid
1236 | (GHB), as described in s. 893.03(1)(d), or any mixture
1237 | containing gamma-hydroxybutyric acid (GHB), and who knows that
1238 | the probable result of such manufacture or importation would be
1239 | the death of any person commits capital manufacture or
1240 | importation of gamma-hydroxybutyric acid (GHB), a capital felony
1241 | punishable as provided in ss. 775.082 and 921.142. Any person
1242 | sentenced for a capital felony under this paragraph shall also
1243 | be sentenced to pay the maximum fine provided under subparagraph
1244 | 1.

1245 | (i)1. Any person who knowingly sells, purchases,
1246 | manufactures, delivers, or brings into this state, or who is
1247 | knowingly in actual or constructive possession of, 1 kilogram or
1248 | more of gamma-butyrolactone (GBL), as described in s.
1249 | 893.03(1)(d), or any mixture containing gamma-butyrolactone
1250 | (GBL), commits a felony of the first degree, which felony shall

1251 be known as "trafficking in gamma-butyrolactone (GBL),"
 1252 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1253 If the quantity involved:

1254 a. Is 1 kilogram or more but less than 5 kilograms, such
 1255 person shall be sentenced to a mandatory minimum term of
 1256 imprisonment of 3 years, and the defendant shall be ordered to
 1257 pay a fine of \$50,000.

1258 b. Is 5 kilograms or more but less than 10 kilograms, such
 1259 person shall be sentenced to a mandatory minimum term of
 1260 imprisonment of 7 years, and the defendant shall be ordered to
 1261 pay a fine of \$100,000.

1262 c. Is 10 kilograms or more, such person shall be sentenced
 1263 to a mandatory minimum term of imprisonment of 15 calendar years
 1264 and pay a fine of \$250,000.

1265 2. Any person who knowingly manufactures or brings into
 1266 the state 150 kilograms or more of gamma-butyrolactone (GBL), as
 1267 described in s. 893.03(1)(d), or any mixture containing gamma-
 1268 butyrolactone (GBL), and who knows that the probable result of
 1269 such manufacture or importation would be the death of any person
 1270 commits capital manufacture or importation of gamma-
 1271 butyrolactone (GBL), a capital felony punishable as provided in
 1272 ss. 775.082 and 921.142. Any person sentenced for a capital
 1273 felony under this paragraph shall also be sentenced to pay the
 1274 maximum fine provided under subparagraph 1.

1275 (j)1. Any person who knowingly sells, purchases,

1276 manufactures, delivers, or brings into this state, or who is
 1277 knowingly in actual or constructive possession of, 1 kilogram or
 1278 more of 1,4-Butanediol as described in s. 893.03(1)(d), or of
 1279 any mixture containing 1,4-Butanediol, commits a felony of the
 1280 first degree, which felony shall be known as "trafficking in
 1281 1,4-Butanediol," punishable as provided in s. 775.082, s.
 1282 775.083, or s. 775.084. If the quantity involved:

1283 a. Is 1 kilogram or more, but less than 5 kilograms, such
 1284 person shall be sentenced to a mandatory minimum term of
 1285 imprisonment of 3 years, and the defendant shall be ordered to
 1286 pay a fine of \$50,000.

1287 b. Is 5 kilograms or more, but less than 10 kilograms,
 1288 such person shall be sentenced to a mandatory minimum term of
 1289 imprisonment of 7 years, and the defendant shall be ordered to
 1290 pay a fine of \$100,000.

1291 c. Is 10 kilograms or more, such person shall be sentenced
 1292 to a mandatory minimum term of imprisonment of 15 calendar years
 1293 and pay a fine of \$500,000.

1294 2. Any person who knowingly manufactures or brings into
 1295 this state 150 kilograms or more of 1,4-Butanediol as described
 1296 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
 1297 and who knows that the probable result of such manufacture or
 1298 importation would be the death of any person commits capital
 1299 manufacture or importation of 1,4-Butanediol, a capital felony
 1300 punishable as provided in ss. 775.082 and 921.142. Any person

1301 sentenced for a capital felony under this paragraph shall also
 1302 be sentenced to pay the maximum fine provided under subparagraph
 1303 1.

1304 (k)1. A person who knowingly sells, purchases,
 1305 manufactures, delivers, or brings into this state, or who is
 1306 knowingly in actual or constructive possession of, 10 grams or
 1307 more of a:

1308 a. Substance described in s. 893.03(1)(c)4., 5., 10., 11.,
 1309 15., 17., 21.-27., 29., 39., 40.-45., 58., 72.-80., 81.-86.,
 1310 90.-102., 104.-108., 110.-113., 143.-145., 148.-150., 160.-163.,
 1311 165., or 187.-189., a substituted cathinone, as described in s.
 1312 893.03(1)(c)191., or substituted phenethylamine, as described in
 1313 s. 893.03(1)(c)192.;

1314 b. Mixture containing any substance described in sub-
 1315 subparagraph a.; or

1316 c. Salt, isomer, ester, or ether or salt of an isomer,
 1317 ester, or ether of a substance described in sub-subparagraph a.,

1318
 1319 commits a felony of the first degree, which felony shall be
 1320 known as "trafficking in phenethylamines," punishable as
 1321 provided in s. 775.082, s. 775.083, or s. 775.084.

1322 2. If the quantity involved under subparagraph 1.:

1323 a. Is 10 grams or more, but less than 200 grams, such
 1324 person shall be sentenced to a mandatory minimum term of
 1325 imprisonment of 3 years and shall be ordered to pay a fine of

1326 | \$50,000.

1327 | b. Is 200 grams or more, but less than 400 grams, such
1328 | person shall be sentenced to a mandatory minimum term of
1329 | imprisonment of 7 years and shall be ordered to pay a fine of
1330 | \$100,000.

1331 | c. Is 400 grams or more, such person shall be sentenced to
1332 | a mandatory minimum term of imprisonment of 15 years and shall
1333 | be ordered to pay a fine of \$250,000.

1334 | 3. A person who knowingly manufactures or brings into this
1335 | state 30 kilograms or more of a substance described in sub-
1336 | subparagraph 1.a., a mixture described in sub-subparagraph 1.b.,
1337 | or a salt, isomer, ester, or ether or a salt of an isomer,
1338 | ester, or ether described in sub-subparagraph 1.c., and who
1339 | knows that the probable result of such manufacture or
1340 | importation would be the death of any person commits capital
1341 | manufacture or importation of phenethylamines, a capital felony
1342 | punishable as provided in ss. 775.082 and 921.142. A person
1343 | sentenced for a capital felony under this paragraph shall also
1344 | be sentenced to pay the maximum fine under subparagraph 2.

1345 | (1)1. Any person who knowingly sells, purchases,
1346 | manufactures, delivers, or brings into this state, or who is
1347 | knowingly in actual or constructive possession of, 1 gram or
1348 | more of lysergic acid diethylamide (LSD) as described in s.
1349 | 893.03(1)(c), or of any mixture containing lysergic acid
1350 | diethylamide (LSD), commits a felony of the first degree, which

HB 1117

2019

1351 felony shall be known as "trafficking in lysergic acid
1352 diethylamide (LSD)," punishable as provided in s. 775.082, s.
1353 775.083, or s. 775.084. If the quantity involved:

1354 a. Is 1 gram or more, but less than 5 grams, such person
1355 shall be sentenced to a mandatory minimum term of imprisonment
1356 of 3 years, and the defendant shall be ordered to pay a fine of
1357 \$50,000.

1358 b. Is 5 grams or more, but less than 7 grams, such person
1359 shall be sentenced to a mandatory minimum term of imprisonment
1360 of 7 years, and the defendant shall be ordered to pay a fine of
1361 \$100,000.

1362 c. Is 7 grams or more, such person shall be sentenced to a
1363 mandatory minimum term of imprisonment of 15 calendar years and
1364 pay a fine of \$500,000.

1365 2. Any person who knowingly manufactures or brings into
1366 this state 7 grams or more of lysergic acid diethylamide (LSD)
1367 as described in s. 893.03(1)(c), or any mixture containing
1368 lysergic acid diethylamide (LSD), and who knows that the
1369 probable result of such manufacture or importation would be the
1370 death of any person commits capital manufacture or importation
1371 of lysergic acid diethylamide (LSD), a capital felony punishable
1372 as provided in ss. 775.082 and 921.142. Any person sentenced for
1373 a capital felony under this paragraph shall also be sentenced to
1374 pay the maximum fine provided under subparagraph 1.

1375 (m)1. A person who knowingly sells, purchases,

1376 manufactures, delivers, or brings into this state, or who is
 1377 knowingly in actual or constructive possession of, 280 grams or
 1378 more of a:

1379 a. Substance described in s. 893.03(1)(c)30., 46.-50.,
 1380 114.-142., 151.-156., 166.-173., or 176.-186. or a synthetic
 1381 cannabinoid, as described in s. 893.03(1)(c)190.; or

1382 b. Mixture containing any substance described in sub-
 1383 subparagraph a.,

1384
 1385 commits a felony of the first degree, which felony shall be
 1386 known as "trafficking in synthetic cannabinoids," punishable as
 1387 provided in s. 775.082, s. 775.083, or s. 775.084.

1388 2. If the quantity involved under subparagraph 1.:

1389 a. Is 280 grams or more, but less than 500 grams, such
 1390 person shall be sentenced to a mandatory minimum term of
 1391 imprisonment of 3 years, and the defendant shall be ordered to
 1392 pay a fine of \$50,000.

1393 b. Is 500 grams or more, but less than 1,000 grams, such
 1394 person shall be sentenced to a mandatory minimum term of
 1395 imprisonment of 7 years, and the defendant shall be ordered to
 1396 pay a fine of \$100,000.

1397 c. Is 1,000 grams or more, but less than 30 kilograms,
 1398 such person shall be sentenced to a mandatory minimum term of
 1399 imprisonment of 15 years, and the defendant shall be ordered to
 1400 pay a fine of \$200,000.

HB 1117

2019

1401 d. Is 30 kilograms or more, such person shall be sentenced
1402 to a mandatory minimum term of imprisonment of 25 years, and the
1403 defendant shall be ordered to pay a fine of \$750,000.

1404 (n)1. A person who knowingly sells, purchases,
1405 manufactures, delivers, or brings into this state, or who is
1406 knowingly in actual or constructive possession of, 14 grams or
1407 more of:

1408 a. A substance described in s. 893.03(1)(c)164., 174., or
1409 175., a n-benzyl phenethylamine compound, as described in s.
1410 893.03(1)(c)193.; or

1411 b. A mixture containing any substance described in sub-
1412 subparagraph a.,

1413
1414 commits a felony of the first degree, which felony shall be
1415 known as "trafficking in n-benzyl phenethylamines," punishable
1416 as provided in s. 775.082, s. 775.083, or s. 775.084.

1417 2. If the quantity involved under subparagraph 1.:

1418 a. Is 14 grams or more, but less than 100 grams, such
1419 person shall be sentenced to a mandatory minimum term of
1420 imprisonment of 3 years, and the defendant shall be ordered to
1421 pay a fine of \$50,000.

1422 b. Is 100 grams or more, but less than 200 grams, such
1423 person shall be sentenced to a mandatory minimum term of
1424 imprisonment of 7 years, and the defendant shall be ordered to
1425 pay a fine of \$100,000.

HB 1117

2019

1426 c. Is 200 grams or more, such person shall be sentenced to
1427 a mandatory minimum term of imprisonment of 15 years, and the
1428 defendant shall be ordered to pay a fine of \$500,000.

1429 3. A person who knowingly manufactures or brings into this
1430 state 400 grams or more of a substance described in sub-
1431 subparagraph 1.a. or a mixture described in sub-subparagraph
1432 1.b., and who knows that the probable result of such manufacture
1433 or importation would be the death of any person commits capital
1434 manufacture or importation of a n-benzyl phenethylamine
1435 compound, a capital felony punishable as provided in ss. 775.082
1436 and 921.142. A person sentenced for a capital felony under this
1437 paragraph shall also be sentenced to pay the maximum fine under
1438 subparagraph 2.

1439 Section 13. This act shall take effect on the same date
1440 that HB 1119 or similar legislation takes effect, if such
1441 legislation is adopted in the same legislative session or an
1442 extension thereof and becomes law.