

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

26 transfer and electronic data interchange,  
 27 respectively; creating s. 581.231, F.S.; declaring  
 28 that excise taxes on hemp consumable THC products are  
 29 government funds; providing for certain penalties and  
 30 warrants; creating s. 581.232, F.S.; providing record  
 31 keeping, inspection, and audit requirements for  
 32 dealers of hemp consumable THC products; creating s.  
 33 581.233, F.S.; providing powers of the department in  
 34 dealing with tax payment delinquencies; creating s.  
 35 581.234, F.S.; providing procedures for fraudulent tax  
 36 activities; creating s. 581.235, F.S.; providing  
 37 circuit court jurisdiction for violations; authorizing  
 38 the Department of Consumer and Agriculture Services to  
 39 adopt emergency rules; providing contingent effective  
 40 dates.

41

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

43

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

46 212.02 Definitions.—The following terms and phrases when  
 47 used in this chapter have the meanings ascribed to them in this  
 48 section, except where the context clearly indicates a different  
 49 meaning:

50 (16) "Sales price" means the total amount paid for

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

76 | which are not itemized on the customer's bill, but which can be  
77 | reasonably identified from the selling dealer's books and  
78 | records kept in the regular course of business. The dealer may  
79 | support the allocation of charges with books and records kept in  
80 | the regular course of business covering the dealer's entire  
81 | service area, including territories outside this state. The term  
82 | "sales price" does not include the excise tax imposed under s.  
83 | 581.223.

84 |       **Section 2. Section 581.222, Florida Statutes, is created**  
85 | **to read:**

86 |       581.222 Definitions.-

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

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

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

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

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

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

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

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

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

116 581.224 Registration.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

188 581.225 Payment of excise taxes on hemp consumable THC  
189 products.—The taxes imposed or administered under this chapter  
190 shall be collected from all dealers on the sale at retail in  
191 this state of hemp consumable THC products taxable under this  
192 chapter.

193 (1) (a) The taxes collected under this chapter and chapter  
194 203 shall be paid by the purchaser of the hemp consumable THC  
195 products and shall be collected from such person by the dealer  
196 of hemp consumable THC products.

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



201 other charges on the bill or invoice.

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

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

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

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

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

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

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

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

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

251 treated as follows:

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

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

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

260 581.227 Returns.-

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

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

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

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

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

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

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

316 581.2275 Penalties.—

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

326 interest; and the amount due with the return.

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

337 (b) Any person who knowingly and with a willful intent to  
338 evade any tax imposed under this chapter fails to file six  
339 consecutive returns as required by law commits a felony of the  
340 third degree, punishable as provided in s. 775.082 or s.  
341 775.083.

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

347 1. If the total amount of unreported taxes is less than  
348 \$300:

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

351 775.082 or s. 775.083.

352 b. Such person commits, for the second offense, a  
353 misdemeanor of the first degree, punishable as provided in s.  
354 775.082 or s. 775.083.

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

358 2. If the total amount of unreported taxes is \$300 or more  
359 but less than \$20,000, such person commits a felony of the third  
360 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
361 775.084.

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

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

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

371 581.228 Powers of the department.—

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

375 (2) The department may adopt rules to implement and

376 administer the tax imposed under this chapter.

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

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

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

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



401 (b) The department may waive the requirement to make a  
 402 return through an electronic data interchange when problems  
 403 arise with respect to the taxpayer's computer capabilities, data  
 404 systems changes, or operating procedures. To obtain a waiver,  
 405 the taxpayer must prove to the department that such problems  
 406 exist.

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

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

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

424 581.231 Taxes declared to be government funds; penalties  
 425 for failure to remit taxes; warrants.-

426 (1) The taxes collected under this chapter become  
427 government funds from the moment of collection by the dealer.

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

432 (a) If the total amount of stolen revenue is less than  
433 \$300, the offense is a misdemeanor of the second degree,  
434 punishable as provided in s. 775.082 or s. 775.083. For a second  
435 offense, the offender is guilty of a misdemeanor of the first  
436 degree, punishable as provided in s. 775.082 or s. 775.083. For  
437 a third or subsequent offense, the offender is guilty of a  
438 felony of the third degree, punishable as provided in s.  
439 775.082, s. 775.083, or s. 775.084.

440 (b) If the total amount of stolen revenue is \$300 or more,  
441 but less than \$20,000, the offense is a felony of the third  
442 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
443 775.084.

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

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

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

476 proceed in the manner specified for jeopardy assessments in s.  
477 213.732.

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

480 581.232 Records required to be kept; power to inspect;  
481 audit procedure.-

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

501 punishable as provided in s. 775.082 or s. 775.083.

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

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

522 (2) For the purpose of enforcement of this chapter, each  
523 dealer shall allow the department to examine its books and  
524 records at all reasonable hours; and, if the dealer refuses, the  
525 department may petition the circuit court to order the dealer to

526 permit such examination, subject to the right of removal of the  
527 cause to the judicial circuit wherein such person's business is  
528 located or wherein such person's books and records are kept.

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

535 (b) The written notification must specify:

536 1. The approximate date on which the auditor is scheduled  
537 to begin the audit.

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

541 3. Any other requests or suggestions that the department  
542 considers necessary.

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

549 (d) The provisions of this chapter concerning fraudulent  
550 or improper records, receipts, invoices, resale certificates,

551 and related documentation apply with respect to any audit.

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

561 **Section 13. Section 581.233, Florida Statutes, is created**  
562 **to read:**

563 581.233 Powers of department in dealing with delinquents;  
564 tax to be separately stated.—

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

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

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

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

597 (5) A dealer may not advertise or hold out to the public,  
598 in any manner, directly or indirectly, that he or she will  
599 absorb all or any part of the tax; that he or she will relieve  
600 the purchaser of the payment of all or any part of the tax; that



601 the tax will not be added to the selling price of the property  
602 sold or released; or, when added, that it or any part thereof  
603 will be refunded directly or indirectly by any method. A person  
604 who violates this subsection with respect to advertising or  
605 refund is guilty of a misdemeanor of the second degree,  
606 punishable as provided in s. 775.082 or s. 775.083. A second or  
607 subsequent offense constitutes a misdemeanor of the first  
608 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

617 581.234 Departmental powers; hearings; distress warrants;  
618 bonds; subpoenas and subpoenas duces tecum.—

619 (1) Any person required to pay a tax imposed or  
620 administered under this chapter or to make a return who renders  
621 a return or makes a payment of a tax with intent to deceive or  
622 defraud the government and prevent the government from  
623 collecting the amount of taxes imposed or administered by this  
624 chapter, or who otherwise fails to comply with this chapter for  
625 the taxable period for which any return is made, any tax is

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

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

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

676 required to be deposited may be sold by the department at public  
677 sale if it becomes necessary to do so in order to recover any  
678 tax, interest, or penalty due. Notice of such sale may be served  
679 personally or by mail upon the person who deposited the  
680 security. Mailing the notice to the last known address appearing  
681 on the records of the department constitutes adequate service.  
682 Any proceeds of the sale exceeding the amount due under this  
683 chapter must be returned to the person who deposited the  
684 security.

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

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

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

726 the provisions of this subsection. If a person refuses to obey a  
727 subpoena or subpoena duces tecum, the department may apply to  
728 any circuit court of this state to enforce compliance with the  
729 subpoena. Witnesses are entitled to be paid a mileage allowance  
730 and witness fees as authorized for witnesses in civil cases.

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

748 2. The notice is sufficient if, on or before the third  
749 day, the notice is delivered in hand to the person entitled to  
750 notice or is mailed by certified or registered mail to the last

751 known mailing address of the person, or, in the absence of a  
752 last known address, is left with the person subpoenaed.

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

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

762 b. Any consumer reporting agency as defined under s.  
763 603(f) of the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(f).

764 c. Any person extending credit through the use of credit  
765 cards or similar devices.

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

768 e. Any attorney.

769 f. Any accountant.

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

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

774 4. This paragraph does not apply to a subpoena served on  
775 the person with respect to whose liability the subpoena is

776 issued or an officer or employee of the person; to a subpoena to  
777 determine whether or not records of the business transactions or  
778 affairs of an identified person have been made or kept; or to a  
779 subpoena described in paragraph (f).

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

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

791 a. Notice of intent to stay the subpoena is given in  
792 writing to the person subpoenaed.

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

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

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



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

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

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

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

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

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

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

826 records relevant to the examination, may prevent the  
827 communication of information from other persons through  
828 intimidation, bribery, or collusion, or may result in flight to  
829 avoid prosecution, testifying, or production of records.

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

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

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

849 (i)1. Except as provided in subparagraph 2., an action  
850 initiated in circuit court under this subsection must be filed

851 in the circuit court in the county where:

852 a. The taxpayer to whom the subpoena relates resides or  
 853 maintains his or her principal commercial domicile in this  
 854 state;

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

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

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

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

867 **Section 15. Section 581.235, Florida Statutes, is created**  
 868 **to read:**

869 581.235 Jurisdiction; dealers not qualified to do business  
 870 in this state.—

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

876        (2) Each dealer who is not qualified to do business in  
 877        this state shall designate with the department an agent within  
 878        this state for service of process to enforce this chapter. If a  
 879        dealer fails to designate such an agent, the Secretary of State  
 880        or any agent or employee of the dealer within this state  
 881        constitutes the agent for the service of such process.

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

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