A bill to be entitled

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

school or day care facility; requiring that a retail sale or transaction for THC-infused beverages occur in a specified manner; prohibiting the direct delivery of THC-infused beverages to consumers; prohibiting a retail licensee from applying for or holding certain licenses and permits; requiring that THC-infused beverages be distributed by a licensed distributor; prohibiting a THC-infused beverage distributor from taking certain actions; requiring such distributors to pay a certain tax to the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation; authorizing THC-infused beverage distributors to credit sales to a vendor; prohibiting a retail vendor of THC-infused beverages from taking certain actions; requiring certain THC-infused beverages to comply with certain requirements; providing civil penalties; reenacting s. 316.2069(5), F.S., relating to commercial megacycles, to incorporate the amendment made to s. 316.1936, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 316.1936, Florida Statutes, is amended

to read:

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

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

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

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

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

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

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

2. Consume an alcoholic beverage or a THC-infused beverage

~~while operating a vehicle in the state or while a passenger in or on a vehicle being operated in the state~~.

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

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

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

(c) Notwithstanding the prohibition contained in this section, passengers in vehicles designed, maintained, and used primarily for the transportation of persons for compensation and in motor homes are exempt.

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

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

(5) This section shall not apply to:

(a) A passenger of a vehicle in which the driver is

operating the vehicle pursuant to a contract to provide transportation for passengers and such driver holds a valid commercial driver license with a passenger endorsement issued in accordance with the requirements of chapter 322;

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

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

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

(7) A county or municipality may adopt an ordinance which imposes more stringent restrictions on the possession of alcoholic beverages or THC-infused beverages in vehicles than those imposed by this section.

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

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

Section 2. Paragraph (n) of subsection (1) of section

500.03, Florida Statutes, is amended to read:

500.03 Definitions; construction; applicability.—

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

(n) "Food" includes:

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

2. Chewing gum;

3. Articles used for components of any such article;

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

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

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

The term includes any raw, cooked, or processed edible substance; ice; any beverage; or any ingredient used, intended for use, or sold for human consumption.

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

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

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

(2) PROHIBITIONS.—

(a) It is unlawful for any person to:

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

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

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

festival sales are prohibited.

(b) THC-infused beverages may not contain alcoholic beverages or intoxicating beverages as defined in s. 561.01(4) and (5), respectively.

(3) RETAIL SALE OF THC-INFUSED BEVERAGES.—

(a) An establishment permitted to sell THC-infused beverages may not be located within 500 feet of a school or day care facility.

(b) Retail sales of THC-infused beverages or transfers of THC-infused beverages from retailer to consumer must take place at a licensed retail location in a face-to-face transaction. The delivery of THC-infused beverages to consumers, directly or indirectly, is prohibited.

(c) A retail licensee permitted to sell THC-infused beverages may not apply for or hold either of the following:

1. A license to distribute such beverages under s. 581.217(7)(b).

2. A food permit to manufacture such beverages under chapter 500 and rule 5K-4, Florida Administrative Code.

(4) THC-INFUSED BEVERAGE DISTRIBUTOR.—

(a) THC-infused beverages may be distributed in this state only by a distributor licensed under the Beverage Law as described in s. 561.14(2). A distributor permitted to distribute THC-infused beverages must own or lease a licensed premises in this state.

(b) A distributor of THC-infused beverages may not:

1. Assist any retail vendor by any gift or loan of money or property of any description, including equipment, fixtures, or furnishings.

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

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

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

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

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

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

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

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

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

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

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

(a) One thousand dollars for a first offense.

(b) Five thousand dollars for a second offense.

(c) Ten thousand dollars for a third or subsequent offense.

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

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

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

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