

1  
2 An act relating to controlled substances;  
3 amending s. 893.13, F.S., relating to  
4 prohibitions against selling, manufacturing, or  
5 delivering, or possessing with intent to sell,  
6 manufacture, or deliver, controlled substances  
7 within 200 feet of the real property comprising  
8 a public housing facility; defining "real  
9 property comprising a public housing facility";  
10 providing penalties; amending s. 921.022, F.S.;  
11 ranking such offenses on the offense severity  
12 ranking chart of the Criminal Punishment Code;  
13 providing an effective date.

14

15 WHEREAS, the Florida Supreme Court in *Brown v. State*,  
16 629 So.2d 841 (Fla. 1994), held that section 893.13(1)(i),  
17 Florida Statutes, 1990 Supplement, relating to enhanced  
18 penalties for selling, manufacturing, or delivering, or  
19 possessing with intent to sell, manufacture, or deliver,  
20 controlled substances within 200 feet of a public housing  
21 facility, was unconstitutionally vague because the phrase  
22 "public housing facility" did not give adequate notice of what  
23 conduct was prohibited, and

24 WHEREAS, the court noted that although the phrase was  
25 not defined in the statutory section, the term "housing  
26 project" had been defined for purposes of a similar statute in  
27 Georgia, relating to prohibitions against drug transactions  
28 within 1,000 feet of a publicly operated housing project, and

29 WHEREAS, the court also noted that analogous language  
30 in s. 893.13(1)(e), providing for enhanced penalties for  
31 certain drug offenses that occur within 1,000 feet of a public

1 or private elementary, middle, or secondary school, gave a  
2 clearer indication of the conduct prohibited, in comparison to  
3 the language of s. 893.139(1)(i), and

4 WHEREAS, it is appropriate to deter and punish drug  
5 offenses against children or other vulnerable persons in or  
6 near housing projects with penalties equal in severity to  
7 those imposed for drug offenses against children and other  
8 victims in or near schools, NOW, THEREFORE,

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Paragraph (d) of subsection (1) of section  
13 893.13, Florida Statutes, is amended, and paragraph (f) is  
14 added to said subsection, to read:

15 893.13 Prohibited acts; penalties.--

16 (1)

17 (d) Except as authorized by this chapter, it is  
18 unlawful for any person to sell, manufacture, or deliver, or  
19 possess with intent to sell, manufacture, or deliver, a  
20 controlled substance in, on, or ~~within 200 feet of the real~~  
21 ~~property comprising a public housing facility,~~ within 200 feet  
22 of the real property comprising a public or private college,  
23 university, or other postsecondary educational institution, or  
24 within 200 feet of any public park. Any person who violates  
25 this paragraph with respect to:

26 1. A controlled substance named or described in s.  
27 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
28 felony of the first degree, punishable as provided in s.  
29 775.082, s. 775.083, or s. 775.084.

30 2. A controlled substance named or described in s.  
31 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the

1 second degree, punishable as provided in s. 775.082, s.  
2 775.083, or s. 775.084.

3 3. Any other controlled substance, except as lawfully  
4 sold, manufactured, or delivered, must be sentenced to pay a  
5 \$500 fine and to serve 100 hours of public service in addition  
6 to any other penalty prescribed by law.

7 (f) Except as authorized by this chapter, it is  
8 unlawful for any person to sell, manufacture, or deliver, or  
9 possess with intent to sell, manufacture, or deliver, a  
10 controlled substance in, on, or within 200 feet of the real  
11 property comprising a public housing facility at any time. For  
12 purposes of this section, the term "real property comprising a  
13 public housing facility" means real property, as defined in s.  
14 421.03(12), of a public corporation created as a housing  
15 authority pursuant to part I of chapter 421. Any person who  
16 violates this paragraph with respect to:

17 1. A controlled substance named or described in s.  
18 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
19 felony of the first degree, punishable as provided in s.  
20 775.082, s. 775.083, or s. 775.084.

21 2. A controlled substance named or described in s.  
22 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the  
23 second degree, punishable as provided in s. 775.082, s.  
24 775.083, or s. 775.084.

25 3. Any other controlled substance, except as lawfully  
26 sold, manufactured, or delivered, must be sentenced to pay a  
27 \$500 fine and to serve 100 hours of public service in addition  
28 to any other penalty prescribed by law.

29 Section 2. Paragraphs (c) and (e) of subsection (3) of  
30 section 921.0022, Florida Statutes, are amended to read:

31

1	921.0022 Criminal Punishment Code; offense severity		
2	ranking chart.--		
3	(3) OFFENSE SEVERITY RANKING CHART		
4			
5	Florida	Felony	
6	Statute	Degree	Description
7			
8			
9			(c) LEVEL 3
10	39.061	3rd	Escapes from juvenile facility
11			(secure detention or residential
12			commitment facility).
13	319.30(4)	3rd	Possession by junkyard of motor
14			vehicle with identification
15			number plate removed.
16	319.33(1)(a)	3rd	Alter or forge any certificate of
17			title to a motor vehicle or
18			mobile home.
19	319.33(1)(c)	3rd	Procure or pass title on stolen
20			vehicle.
21	319.33(4)	3rd	With intent to defraud, possess,
22			sell, etc., a blank, forged, or
23			unlawfully obtained title or
24			registration.
25	328.05(2)	3rd	Possess, sell, or counterfeit
26			fictitious, stolen, or fraudulent
27			titles or bills of sale of
28			vessels.
29	328.07(4)	3rd	Manufacture, exchange, or possess
30			vessel with counterfeit or wrong
31			ID number.

1	376.302(5)	3rd	Fraud related to reimbursement
2			for cleanup expenses under the
3			Inland Protection Trust Fund.
4	501.001(2)(b)	2nd	Tampers with a consumer product
5			or the container using materially
6			false/misleading information.
7	697.08	3rd	Equity skimming.
8	790.15(3)	3rd	Person directs another to
9			discharge firearm from a vehicle.
10	796.05(1)	3rd	Live on earnings of a prostitute.
11	806.10(1)	3rd	Maliciously injure, destroy, or
12			interfere with vehicles or
13			equipment used in firefighting.
14	806.10(2)	3rd	Interferes with or assaults
15			firefighter in performance of
16			duty.
17	810.09(2)(c)	3rd	Trespass on property other than
18			structure or conveyance armed
19			with firearm or dangerous weapon.
20	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
21			less than \$10,000.
22	815.04(4)(b)	2nd	Computer offense devised to
23			defraud or obtain property.
24	817.034(4)(a)3.	3rd	Engages in scheme to defraud
25			(Florida Communications Fraud
26			Act), property valued at less
27			than \$20,000.
28	817.233	3rd	Burning to defraud insurer.
29	828.12(2)	3rd	Tortures any animal with intent
30			to inflict intense pain, serious
31			physical injury, or death.

1	831.29	2nd	Possession of instruments for
2			counterfeiting drivers' licenses.
3	838.021(3)(b)	3rd	Threatens unlawful harm to public
4			servant.
5	843.19	3rd	Injure, disable, or kill police
6			dog or horse.
7	870.01(2)	3rd	Riot; inciting or encouraging.
8	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
9			cannabis (or other s.
10			893.03(1)(c), (2)(c), (3), or (4)
11			drugs).
12	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
13			893.03(1)(c), (2)(c), (3), or (4)
14			drugs within 200 feet of
15			university, <del>public housing</del>
16			<del>facility</del> , or public park.
17	<u>893.13(1)(f)2.</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver s.</u>
18			<u>893.03(1)(c), (2)(c), (3), or (4)</u>
19			<u>drugs within 200 feet of public</u>
20			<u>housing facility.</u>
21	893.13(6)(a)	3rd	Possession of any controlled
22			substance other than felony
23			possession of cannabis.
24	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
25			controlled substance by fraud,
26			forgery, misrepresentation, etc.
27	893.13(7)(a)11.	3rd	Furnish false or fraudulent
28			material information on any
29			document or record required by
30			chapter 893.
31			

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1998 Legislature

CS for SB 358, 2nd Engrossed

1	918.13(1)(a)	3rd	Alter, destroy, or conceal
2			investigation evidence.
3	944.47		
4	(1)(a)1.-2.	3rd	Introduce contraband to
5			correctional facility.
6	944.47(1)(c)	2nd	Possess contraband while upon the
7			grounds of a correctional
8			institution.
9			(e) LEVEL 5
10	316.027(1)(a)	3rd	Accidents involving personal
11			injuries, failure to stop;
12			leaving scene.
13	316.1935(3)	3rd	Aggravated fleeing or eluding.
14	322.34(3)	3rd	Careless operation of motor
15			vehicle with suspended license,
16			resulting in death or serious
17			bodily injury.
18	327.30(5)	3rd	Vessel accidents involving
19			personal injury; leaving scene.
20	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
21			knowing HIV positive.
22	790.01(2)	3rd	Carrying a concealed firearm.
23	790.162	2nd	Threat to throw or discharge
24			destructive device.
25	790.163	2nd	False report of deadly explosive.
26	790.165(2)	3rd	Manufacture, sell, possess, or
27			deliver hoax bomb.
28	790.221(1)	2nd	Possession of short-barreled
29			shotgun or machine gun.
30	790.23	2nd	Felons in possession of firearms
31			or electronic weapons or devices.

ENROLLED

1998 Legislature

CS for SB 358, 2nd Engrossed

1	806.111(1)	3rd	Possess, manufacture, or dispense
2			fire bomb with intent to damage
3			any structure or property.
4	812.019(1)	2nd	Stolen property; dealing in or
5			trafficking in.
6	812.16(2)	3rd	Owning, operating, or conducting
7			a chop shop.
8	817.034(4)(a)2.	2nd	Communications fraud, value
9			\$20,000 to \$50,000.
10	825.1025(4)	3rd	Lewd or lascivious exhibition in
11			the presence of an elderly person
12			or disabled adult.
13	827.071(4)	2nd	Possess with intent to promote
14			any photographic material, motion
15			picture, etc., which includes
16			sexual conduct by a child.
17	843.01	3rd	Resist officer with violence to
18			person; resist arrest with
19			violence.
20	874.05(2)	2nd	Encouraging or recruiting another
21			to join a criminal street gang;
22			second or subsequent offense.
23	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
24			cocaine (or other s.
25			893.03(1)(a), (1)(b), (1)(d),
26			(2)(a), or (2)(b) drugs).
27	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
28			cannabis (or other s.
29			893.03(1)(c), (2)(c), (3), or (4)
30			drugs) within 1,000 feet of a
31			school.



1 893.13(1)(d)1. 1st Sell, manufacture, or deliver  
2 cocaine (or other s.  
3 893.03(1)(a), (1)(b), (1)(d),  
4 (2)(a), or (2)(b) drugs) within  
5 200 feet of university, ~~public~~  
6 ~~housing facility,~~ or public park.  
7 893.13(1)(f)1. 1st Sell, manufacture, or deliver  
8 cocaine (or other s.  
9 893.03(1)(a), (1)(b), (1)(d), or  
10 (2)(a), or (2)(b) drugs) within  
11 200 feet of public housing  
12 facility.  
13 893.13(4)(b) 2nd Deliver to minor cannabis (or  
14 other s. 893.03(1)(c), (2)(c),  
15 (3), or (4) drugs).  
16 Section 3. This act shall take effect October 1, 1998.  
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