

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 134

SPONSOR: Senator Klein

SUBJECT: Controlled Substances/Child Care

DATE: December 21, 1998 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	<u>Withdrawn</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 134 would correct a misplaced statutory provision relating to the unlawful sale or possession of a controlled substance within a specified area surrounding a child care facility. The misplaced statutory provision requires that the owner or operator of a child care facility post a sign identifying the facility as a licensed child care facility.

This bill would substantially amend s. 893.13 (1998 Supp.).

II. Present Situation:

Section 893.13, F.S. (1998 Supp.), prescribes controlled substance offenses and penalties. In 1997, the Florida Legislature amended this section to create a new controlled substance offense for which criminal penalties attach. See ch. 97-269, L.O.F.; s. 893.13(1)(c)1.-3. and (6), F.S. (1998 Supp.). Section 893.13(1)(c), F.S., provides, in part, that it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility. The criminal penalties attached to the prohibited acts depend upon the nature of the controlled substance sold. For example, if the defendant is convicted of selling cocaine, the crime is a first degree felony and the defendant must be sentenced to a three year mandatory minimum term of imprisonment. If the defendant is convicted of selling cannabis, the crime is a second degree felony. These penalties are similar to the penalties attached to sale of controlled substances in certain other specified areas, such as public schools, and are greater than the penalties generally attached to sale of controlled substances.

The provision prescribing the child care facility offense, and the penalty provisions attached thereto, are codified at s. 893.13(1)(c)1.-3., F.S. (1998 Supp.). An additional provision relating to this offense is found at a. 893.13(6), F.S. (1998 Supp.). This provision requires that the owner or operator of a child care facility post a sign that is not less than two square feet in size with a word legend identifying the facility as a licensed child care facility. Further, this sign must be posted on

the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

The sign-posting provision was incorrectly placed in s. 893.13, F.S. (1998 Supp.), at subsection (6), which relates, generally, to possession of controlled substances. The sign-posting provision should have been placed at s. 893.13(1)(c)4., F.S., so that it directly follows the provision prescribing the child care facility offense [s. 893.13(1)(c), F.S.], and the penalty provisions attached thereto [s. 893.13(1)(c)2.-3., F.S.].

III. Effect of Proposed Changes:

Senate Bill 134 would make no substantive change to current law. The bill would simply amend s. 893.13, F.S. (1998 Supp.), to provide for the correct placement of a statutory provision. This provision, which relates to the offenses of selling controlled substances within 1,000 feet of a child care facility, requires the posting of a sign identifying a child care facility as a licensed child care facility.

Senate Bill 134 would delete the current provision as it incorrectly appears at s. 893.13(6), F.S. (1998 Supp.), and place the same provision where it should appear, at s. 893.13(1)(c)4., F.S., directly following the provision prescribing the child care facility offense and the penalty provisions attached thereto.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Estimating Conference estimates that SB 134 will have no prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
