

By the Committee on Criminal Justice and Senator Brown-Waite

307-1456-01

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.03, F.S.; adding materials,
4 compounds, mixtures, or preparations containing
5 certain limited quantities of hydrocodone to
6 the substances listed under Schedule III as
7 controlled substances; providing direction on
8 which law appertains to the weighing of
9 hydrocodone for the purpose of charging
10 trafficking in hydrocodone; amending s.
11 893.135, F.S.; providing penalties for
12 trafficking in certain mixtures containing
13 hydrocodone; clarifying legislative intent
14 regarding the weighing of a mixture or mixtures
15 containing certain controlled substances;
16 providing findings regarding judicial
17 constructions of legislative intent; reenacting
18 s. 893.02(14), F.S., relating to a definition
19 of mixtures, to incorporate the amendment in s.
20 893.135, F.S., in reference thereto; amending
21 s. 948.01, F.S.; authorizing drug offender
22 probation only for those offenders being
23 sentenced for certain drug possession offenses
24 or drug purchase offenses; reenacting s.
25 921.0022(3)(b), (c), and (e), F.S., relating to
26 the offense severity ranking chart in the
27 Criminal Punishment Code, to incorporate the
28 amendment in s. 893.03, F.S., in references
29 thereto; providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Paragraph (c) of subsection (3) of section
2 893.03, Florida Statutes, is amended to read:

3 893.03 Standards and schedules.--The substances
4 enumerated in this section are controlled by this chapter.
5 The controlled substances listed or to be listed in Schedules
6 I, II, III, IV, and V are included by whatever official,
7 common, usual, chemical, or trade name designated. The
8 provisions of this section shall not be construed to include
9 within any of the schedules contained in this section any
10 excluded drugs listed within the purview of 21 C.F.R. s.
11 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
12 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
13 styled "Exempted Prescription Products"; or 21 C.F.R. s.
14 1308.34, styled "Exempt Anabolic Steroid Products."

15 (3) SCHEDULE III.--A substance in Schedule III has a
16 potential for abuse less than the substances contained in
17 Schedules I and II and has a currently accepted medical use in
18 treatment in the United States, and abuse of the substance may
19 lead to moderate or low physical dependence or high
20 psychological dependence or, in the case of anabolic steroids,
21 may lead to physical damage. The following substances are
22 controlled in Schedule III:

23 (c) Unless specifically excepted or unless listed in
24 another schedule, any material, compound, mixture, or
25 preparation containing limited quantities of any of the
26 following controlled substances or any salts thereof:

27 1. Not more than 1.8 grams of codeine per 100
28 milliliters or not more than 90 milligrams per dosage unit,
29 with an equal or greater quantity of an isoquinoline alkaloid
30 of opium.

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1 2. Not more than 1.8 grams of codeine per 100
2 milliliters or not more than 90 milligrams per dosage unit,
3 with recognized therapeutic amounts of one or more active
4 ingredients which are not controlled substances.

5 3. Not more than 300 milligrams of hydrocodone per 100
6 milliliters or not more than 15 milligrams per dosage unit,
7 with a fourfold or greater quantity of an isoquinoline
8 alkaloid of opium.

9 4. Not more than 300 milligrams of hydrocodone per 100
10 milliliters or not more than 15 milligrams per dosage unit,
11 with recognized therapeutic amounts of one or more active
12 ingredients that are not controlled substances.

13 ~~5.3.~~ Not more than 1.8 grams of dihydrocodeine per 100
14 milliliters or not more than 90 milligrams per dosage unit,
15 with recognized therapeutic amounts of one or more active
16 ingredients which are not controlled substances.

17 ~~6.4.~~ Not more than 300 milligrams of ethylmorphine per
18 100 milliliters or not more than 15 milligrams per dosage
19 unit, with one or more active, nonnarcotic ingredients in
20 recognized therapeutic amounts.

21 ~~7.5.~~ Not more than 50 milligrams of morphine per 100
22 milliliters or per 100 grams, with recognized therapeutic
23 amounts of one or more active ingredients which are not
24 controlled substances.

25
26 For purposes of charging a person with a violation of s.
27 893.135 involving any controlled substance described in
28 subparagraph 3. or subparagraph 4., the controlled substance
29 is a Schedule III controlled substance pursuant to this
30 paragraph but the weight of the controlled substance per
31 milliliters or per dosage unit is not relevant to the charging

1 of a violation of s. 893.135. The weight of the controlled
2 substance shall be determined pursuant to s. 893.135(6).

3 Section 2. Section 893.135, Florida Statutes, is
4 amended to read:

5 893.135 Trafficking; mandatory sentences; suspension
6 or reduction of sentences; conspiracy to engage in
7 trafficking.--

8 (1) Except as authorized in this chapter or in chapter
9 499 and notwithstanding the provisions of s. 893.13:

10 (a) Any person who knowingly sells, purchases,
11 manufactures, delivers, or brings into this state, or who is
12 knowingly in actual or constructive possession of, in excess
13 of 25 pounds of cannabis, or 300 or more cannabis plants,
14 commits a felony of the first degree, which felony shall be
15 known as "trafficking in cannabis," punishable as provided in
16 s. 775.082, s. 775.083, or s. 775.084. If the quantity of
17 cannabis involved:

18 1. Is in excess of 25 pounds, but less than 2,000
19 pounds, or is 300 or more cannabis plants, but not more than
20 2,000 cannabis plants, such person shall be sentenced to a
21 mandatory minimum term of imprisonment of 3 years, and the
22 defendant shall be ordered to pay a fine of \$25,000.

23 2. Is 2,000 pounds or more, but less than 10,000
24 pounds, or is 2,000 or more cannabis plants, but not more than
25 10,000 cannabis plants, such person shall be sentenced to a
26 mandatory minimum term of imprisonment of 7 years, and the
27 defendant shall be ordered to pay a fine of \$50,000.

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

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2 For the purpose of this paragraph, a plant, including, but not
3 limited to, a seedling or cutting, is a "cannabis plant" if it
4 has some readily observable evidence of root formation, such
5 as root hairs. To determine if a piece or part of a cannabis
6 plant severed from the cannabis plant is itself a cannabis
7 plant, the severed piece or part must have some readily
8 observable evidence of root formation, such as root hairs.
9 Callous tissue is not readily observable evidence of root
10 formation. The viability and sex of a plant and the fact that
11 the plant may or may not be a dead harvested plant are not
12 relevant in determining if the plant is a "cannabis plant" or
13 in the charging of an offense under this paragraph. Upon
14 conviction, the court shall impose the longest term of
15 imprisonment provided for in this paragraph.

16 (b)1. Any person who knowingly sells, purchases,
17 manufactures, delivers, or brings into this state, or who is
18 knowingly in actual or constructive possession of, 28 grams or
19 more of cocaine, as described in s. 893.03(2)(a)4., or of any
20 mixture containing cocaine, but less than 150 kilograms of
21 cocaine or any such mixture, commits a felony of the first
22 degree, which felony shall be known as "trafficking in
23 cocaine," punishable as provided in s. 775.082, s. 775.083, or
24 s. 775.084. If the quantity involved:

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

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

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

6 2. Any person who knowingly sells, purchases,
7 manufactures, delivers, or brings into this state, or who is
8 knowingly in actual or constructive possession of, 150
9 kilograms or more of cocaine, as described in s.
10 893.03(2)(a)4., commits the first degree felony of trafficking
11 in cocaine. A person who has been convicted of the first
12 degree felony of trafficking in cocaine under this
13 subparagraph shall be punished by life imprisonment and is
14 ineligible for any form of discretionary early release except
15 pardon or executive clemency or conditional medical release
16 under s. 947.149. However, if the court determines that, in
17 addition to committing any act specified in this paragraph:

18 a. The person intentionally killed an individual or
19 counseled, commanded, induced, procured, or caused the
20 intentional killing of an individual and such killing was the
21 result; or

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

24
25 such person commits the capital felony of trafficking in
26 cocaine, punishable as provided in ss. 775.082 and 921.142.
27 Any person sentenced for a capital felony under this paragraph
28 shall also be sentenced to pay the maximum fine provided under
29 subparagraph 1.

30 3. Any person who knowingly brings into this state 300
31 kilograms or more of cocaine, as described in s.

1 893.03(2)(a)4., and who knows that the probable result of such
2 importation would be the death of any person, commits capital
3 importation of cocaine, a capital felony punishable as
4 provided in ss. 775.082 and 921.142. Any person sentenced for
5 a capital felony under this paragraph shall also be sentenced
6 to pay the maximum fine provided under subparagraph 1.

7 (c)1. Any person who knowingly sells, purchases,
8 manufactures, delivers, or brings into this state, or who is
9 knowingly in actual or constructive possession of, 4 grams or
10 more of any morphine, opium, oxycodone, hydrocodone,
11 hydromorphone, or any salt, derivative, isomer, or salt of an
12 isomer thereof, including heroin, as described in s.

13 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or
14 more of any mixture containing any such substance, but less
15 than 30 kilograms of such substance or mixture, commits a
16 felony of the first degree, which felony shall be known as
17 "trafficking in illegal drugs," punishable as provided in s.
18 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

23 b. Is 14 grams or more, but less than 28 grams, such
24 person shall be sentenced to a mandatory minimum term of
25 imprisonment of 15 years, and the defendant shall be ordered
26 to pay a fine of \$100,000.

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

30 2. Any person who knowingly sells, purchases,
31 manufactures, delivers, or brings into this state, or who is

1 knowingly in actual or constructive possession of, 30
2 kilograms or more of any morphine, opium, oxycodone,
3 hydrocodone, hydromorphone, or any salt, derivative, isomer,
4 or salt of an isomer thereof, including heroin, as described
5 in s. 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 30
6 kilograms or more of any mixture containing any such
7 substance, commits the first degree felony of trafficking in
8 illegal drugs. A person who has been convicted of the first
9 degree felony of trafficking in illegal drugs under this
10 subparagraph shall be punished by life imprisonment and is
11 ineligible for any form of discretionary early release except
12 pardon or executive clemency or conditional medical release
13 under s. 947.149. However, if the court determines that, in
14 addition to committing any act specified in this paragraph:
15 a. The person intentionally killed an individual or
16 counseled, commanded, induced, procured, or caused the
17 intentional killing of an individual and such killing was the
18 result; or
19 b. The person's conduct in committing that act led to
20 a natural, though not inevitable, lethal result,
21
22 such person commits the capital felony of trafficking in
23 illegal drugs, punishable as provided in ss. 775.082 and
24 921.142. Any person sentenced for a capital felony under this
25 paragraph shall also be sentenced to pay the maximum fine
26 provided under subparagraph 1.
27 3. Any person who knowingly brings into this state 60
28 kilograms or more of any morphine, opium, oxycodone,
29 hydrocodone, hydromorphone, or any salt, derivative, isomer,
30 or salt of an isomer thereof, including heroin, as described
31 in s. 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 60

1 kilograms or more of any mixture containing any such
2 substance, and who knows that the probable result of such
3 importation would be the death of any person, commits capital
4 importation of illegal drugs, a capital felony punishable as
5 provided in ss. 775.082 and 921.142. Any person sentenced for
6 a capital felony under this paragraph shall also be sentenced
7 to pay the maximum fine provided under subparagraph 1.

8 (d)1. Any person who knowingly sells, purchases,
9 manufactures, delivers, or brings into this state, or who is
10 knowingly in actual or constructive possession of, 28 grams or
11 more of phencyclidine or of any mixture containing
12 phencyclidine, as described in s. 893.03(2)(b), commits a
13 felony of the first degree, which felony shall be known as
14 "trafficking in phencyclidine," punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

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

27 2. Any person who knowingly brings into this state 800
28 grams or more of phencyclidine or of any mixture containing
29 phencyclidine, as described in s. 893.03(2)(b), and who knows
30 that the probable result of such importation would be the
31 death of any person commits capital importation of

1 phencyclidine, a capital felony punishable as provided in ss.
2 775.082 and 921.142. Any person sentenced for a capital felony
3 under this paragraph shall also be sentenced to pay the
4 maximum fine provided under subparagraph 1.

5 (e)1. Any person who knowingly sells, purchases,
6 manufactures, delivers, or brings into this state, or who is
7 knowingly in actual or constructive possession of, 200 grams
8 or more of methaqualone or of any mixture containing
9 methaqualone, as described in s. 893.03(1)(d), commits a
10 felony of the first degree, which felony shall be known as
11 "trafficking in methaqualone," punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

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

24 2. Any person who knowingly brings into this state 50
25 kilograms or more of methaqualone or of any mixture containing
26 methaqualone, as described in s. 893.03(1)(d), and who knows
27 that the probable result of such importation would be the
28 death of any person commits capital importation of
29 methaqualone, a capital felony punishable as provided in ss.
30 775.082 and 921.142. Any person sentenced for a capital felony
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1 under this paragraph shall also be sentenced to pay the
2 maximum fine provided under subparagraph 1.

3 (f)1. Any person who knowingly sells, purchases,
4 manufactures, delivers, or brings into this state, or who is
5 knowingly in actual or constructive possession of, 14 grams or
6 more of amphetamine, as described in s. 893.03(2)(c)2., or
7 methamphetamine, as described in s. 893.03(2)(c)4., or of any
8 mixture containing amphetamine or methamphetamine, or
9 phenylacetone, phenylacetic acid, or ephedrine in conjunction
10 with other chemicals and equipment utilized in the manufacture
11 of amphetamine or methamphetamine, commits a felony of the
12 first degree, which felony shall be known as "trafficking in
13 amphetamine," punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084. If the quantity involved:

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

19 b. Is 28 grams or more, but less than 200 grams, such
20 person shall be sentenced to a mandatory minimum term of
21 imprisonment of 7 years, and the defendant shall be ordered to
22 pay a fine of \$100,000.

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

26 2. Any person who knowingly manufactures or brings
27 into this state 400 grams or more of amphetamine, as described
28 in s. 893.03(2)(c)2., or methamphetamine, as described in s.
29 893.03(2)(c)4., or of any mixture containing amphetamine or
30 methamphetamine, or phenylacetone, phenylacetic acid, or
31 ephedrine in conjunction with other chemicals and equipment

1 used in the manufacture of amphetamine or methamphetamine, and
2 who knows that the probable result of such manufacture or
3 importation would be the death of any person commits capital
4 manufacture or importation of amphetamine, a capital felony
5 punishable as provided in ss. 775.082 and 921.142. Any person
6 sentenced for a capital felony under this paragraph shall also
7 be sentenced to pay the maximum fine provided under
8 subparagraph 1.

9 (g)1. Any person who knowingly sells, purchases,
10 manufactures, delivers, or brings into this state, or who is
11 knowingly in actual or constructive possession of, 4 grams or
12 more of flunitrazepam or any mixture containing flunitrazepam
13 as described in s. 893.03(1)(a) commits a felony of the first
14 degree, which felony shall be known as "trafficking in
15 flunitrazepam," punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084. If the quantity involved:

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

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

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

28 2. Any person who knowingly sells, purchases,
29 manufactures, delivers, or brings into this state or who is
30 knowingly in actual or constructive possession of 30 kilograms
31 or more of flunitrazepam or any mixture containing

1 flunitrazepam as described in s. 893.03(1)(a) commits the
2 first degree felony of trafficking in flunitrazepam. A person
3 who has been convicted of the first degree felony of
4 trafficking in flunitrazepam under this subparagraph shall be
5 punished by life imprisonment and is ineligible for any form
6 of discretionary early release except pardon or executive
7 clemency or conditional medical release under s. 947.149.
8 However, if the court determines that, in addition to
9 committing any act specified in this paragraph:
10 a. The person intentionally killed an individual or
11 counseled, commanded, induced, procured, or caused the
12 intentional killing of an individual and such killing was the
13 result; or
14 b. The person's conduct in committing that act led to
15 a natural, though not inevitable, lethal result,
16
17 such person commits the capital felony of trafficking in
18 flunitrazepam, punishable as provided in ss. 775.082 and
19 921.142. Any person sentenced for a capital felony under this
20 paragraph shall also be sentenced to pay the maximum fine
21 provided under subparagraph 1.
22 (h)1. Any person who knowingly sells, purchases,
23 manufactures, delivers, or brings into this state, or who is
24 knowingly in actual or constructive possession of, 1 kilogram
25 or more of gamma-hydroxybutyric acid (GHB), as described in s.
26 893.03(2)(b), or any mixture containing gamma-hydroxybutyric
27 acid (GHB), commits a felony of the first degree, which felony
28 shall be known as "trafficking in gamma-hydroxybutyric acid
29 (GHB)," punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084. If the quantity involved:
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1 a. Is 1 kilogram or more but less than 5 kilograms,
2 such person shall be sentenced to a mandatory minimum term of
3 imprisonment of 3 years, and the defendant shall be ordered to
4 pay a fine of \$50,000.

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

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

12 2. Any person who knowingly manufactures or brings
13 into this state 150 kilograms or more of gamma-hydroxybutyric
14 acid (GHB), as described in s. 893.03(2)(b), or any mixture
15 containing gamma-hydroxybutyric acid (GHB), and who knows that
16 the probable result of such manufacture or importation would
17 be the death of any person commits capital manufacture or
18 importation of gamma-hydroxybutyric acid (GHB), a capital
19 felony punishable as provided in ss. 775.082 and 921.142. Any
20 person sentenced for a capital felony under this paragraph
21 shall also be sentenced to pay the maximum fine provided under
22 subparagraph 1.

23 (i)1. Any person who knowingly sells, purchases,
24 manufactures, delivers, or brings into this state, or who is
25 knowingly in actual or constructive possession of, 1 kilogram
26 or more of 1,4-Butanediol as described in s. 893.03(2)(b), or
27 of any mixture containing 1,4-Butanediol, commits a felony of
28 the first degree, which felony shall be known as "trafficking
29 in 1,4-Butanediol," punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084. If the quantity involved:

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

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

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

12 2. Any person who knowingly manufactures or brings
13 into this state 150 kilograms or more of 1,4-Butanediol as
14 described in s. 893.03(2)(b), or any mixture containing
15 1,4-Butanediol, and who knows that the probable result of such
16 manufacture or importation would be the death of any person
17 commits capital manufacture or importation of 1,4-Butanediol,
18 a capital felony punishable as provided in ss. 775.082 and
19 921.142. Any person sentenced for a capital felony under this
20 paragraph shall also be sentenced to pay the maximum fine
21 provided under subparagraph 1.

22 (j)1. Any person who knowingly sells, purchases,
23 manufactures, delivers, or brings into this state, or who is
24 knowingly in actual or constructive possession of, 10 grams or
25 more of any of the following substances described in s.
26 893.03(1)(a) or (c):

- 27 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 28 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 29 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 30 d. 2,5-Dimethoxyamphetamine;
- 31 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

- 1 f. N-ethylamphetamine;
- 2 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 3 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 4 i. 4-methoxyamphetamine;
- 5 j. 4-Methyl-2,5-dimethoxyamphetamine;
- 6 k. 3,4-Methylenedioxy-N-ethylamphetamine;
- 7 l. 3,4-Methylenedioxyamphetamine;
- 8 m. N,N-dimethylamphetamine; or
- 9 n. 3,4,5-Trimethoxyamphetamine,
- 10
- 11 individually or in any combination of or any mixture
- 12 containing any substance listed in sub-subparagraphs a.-n.,
- 13 commits a felony of the first degree, which felony shall be
- 14 known as "trafficking in Phenethylamines," punishable as
- 15 provided in s. 775.082, s. 775.083, or s. 775.084.
- 16 2. If the quantity involved:
- 17 a. Is 10 grams or more but less than 200 grams, such
- 18 person shall be sentenced to a mandatory minimum term of
- 19 imprisonment of 3 years, and the defendant shall be ordered to
- 20 pay a fine of \$50,000.
- 21 b. Is 200 grams or more, but less than 400 grams, such
- 22 person shall be sentenced to a mandatory minimum term of
- 23 imprisonment of 7 years, and the defendant shall be ordered to
- 24 pay a fine of \$100,000.
- 25 c. Is 400 grams or more, such person shall be
- 26 sentenced to a mandatory minimum term of imprisonment of 15
- 27 calendar years and pay a fine of \$250,000.
- 28 3. Any person who knowingly manufactures or brings
- 29 into this state 30 kilograms or more of any of the following
- 30 substances described in s. 893.03(1)(a) or (c):
- 31 a. 3,4-Methylenedioxymethamphetamine (MDMA);

- 1 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 2 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 3 d. 2,5-Dimethoxyamphetamine;
- 4 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 5 f. N-ethylamphetamine;
- 6 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 7 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 8 i. 4-methoxyamphetamine;
- 9 j. 4-Methyl-2,5-dimethoxyamphetamine;
- 10 k. 3,4-Methylenedioxy-N-ethylamphetamine;
- 11 l. 3,4-Methylenedioxyamphetamine;
- 12 m. N,N-dimethylamphetamine; or
- 13 n. 3,4,5-Trimethoxyamphetamine,
- 14
- 15 individually or in any combination of or any mixture
- 16 containing any substance listed in sub-subparagraphs a.-n.,
- 17 and who knows that the probable result of such manufacture or
- 18 importation would be the death of any person commits capital
- 19 manufacture or importation of Phenethylamines, a capital
- 20 felony punishable as provided in ss. 775.082 and 921.142. Any
- 21 person sentenced for a capital felony under this paragraph
- 22 shall also be sentenced to pay the maximum fine provided under
- 23 subparagraph 1.
- 24 (2) A person acts knowingly under subsection (1) if
- 25 that person intends to sell, purchase, manufacture, deliver,
- 26 or bring into this state, or to actually or constructively
- 27 possess, any of the controlled substances listed in subsection
- 28 (1), regardless of which controlled substance listed in
- 29 subsection (1) is in fact sold, purchased, manufactured,
- 30 delivered, or brought into this state, or actually or
- 31 constructively possessed.

1 (3) Notwithstanding the provisions of s. 948.01, with
2 respect to any person who is found to have violated this
3 section, adjudication of guilt or imposition of sentence shall
4 not be suspended, deferred, or withheld, nor shall such person
5 be eligible for parole prior to serving the mandatory minimum
6 term of imprisonment prescribed by this section. A person
7 sentenced to a mandatory minimum term of imprisonment under
8 this section is not eligible for any form of discretionary
9 early release, except pardon or executive clemency or
10 conditional medical release under s. 947.149, prior to serving
11 the mandatory minimum term of imprisonment.

12 (4) The state attorney may move the sentencing court
13 to reduce or suspend the sentence of any person who is
14 convicted of a violation of this section and who provides
15 substantial assistance in the identification, arrest, or
16 conviction of any of that person's accomplices, accessories,
17 coconspirators, or principals or of any other person engaged
18 in trafficking in controlled substances. The arresting agency
19 shall be given an opportunity to be heard in aggravation or
20 mitigation in reference to any such motion. Upon good cause
21 shown, the motion may be filed and heard in camera. The judge
22 hearing the motion may reduce or suspend the sentence if the
23 judge finds that the defendant rendered such substantial
24 assistance.

25 (5) Any person who agrees, conspires, combines, or
26 confederates with another person to commit any act prohibited
27 by subsection (1) commits a felony of the first degree and is
28 punishable as if he or she had actually committed such
29 prohibited act. Nothing in this subsection shall be construed
30 to prohibit separate convictions and sentences for a violation
31 of this subsection and any violation of subsection (1).

1 (6) A mixture, as defined in s. 893.02(14), containing
2 any controlled substance described in this section includes,
3 but is not limited to, a solution or a dosage unit, including
4 but not limited to, a pill or tablet, containing a controlled
5 substance. For the purpose of clarifying legislative intent
6 regarding the weighing of a mixture containing a controlled
7 substance described in this section, the weight of the
8 controlled substance is the total weight of the mixture,
9 including the controlled substance and any other substance in
10 the mixture. If there is more than one mixture containing the
11 same controlled substance, the weight of the controlled
12 substance is calculated by aggregating the total weight of
13 each mixture.

14 (7) For the purpose of further clarifying legislative
15 intent, the Legislature finds that the opinion in Hayes v.
16 State, 760 So.2d 1 (Fla. 1999) does not correctly construe
17 legislative intent. The Legislature finds that the opinions in
18 State v. Hayes, 720 So.2d 1095 (Fla. 4th DCA 1998) and State
19 v. Baxley, 684 So.2d 831 (Fla. 5th DCA 1996) correctly
20 construe legislative intent.

21 Section 3. For the purpose of incorporating the
22 amendments to section 893.135, Florida Statutes, in a
23 reference thereto, subsection (14) of section 893.02, Florida
24 Statutes, is amended to read:

25 893.02 Definitions.--The following words and phrases
26 as used in this chapter shall have the following meanings,
27 unless the context otherwise requires:

28 (14) "Mixture" means any physical combination of two
29 or more substances.

30 Section 4. Subsection (13) of section 948.01, Florida
31 Statutes, is amended to read:

1 948.01 When court may place defendant on probation or
2 into community control.--

3 (13) If it appears to the court upon a hearing that
4 the defendant is a chronic substance abuser whose criminal
5 conduct is a violation of s. 893.13(2)(a) or s. 893.13(6)(a)
6 ~~chapter 893~~, the court may either adjudge the defendant guilty
7 or stay and withhold the adjudication of guilt; and, in either
8 case, it may stay and withhold the imposition of sentence and
9 place the defendant on drug offender probation.

10 (a) The Department of Corrections shall develop and
11 administer a drug offender probation program which emphasizes
12 a combination of treatment and intensive community supervision
13 approaches and which includes provision for supervision of
14 offenders in accordance with a specific treatment plan. The
15 program may include the use of graduated sanctions consistent
16 with the conditions imposed by the court. Drug offender
17 probation status shall include surveillance and random drug
18 testing, and may include those measures normally associated
19 with community control, except that specific treatment
20 conditions and other treatment approaches necessary to monitor
21 this population may be ordered.

22 (b) Offenders placed on drug offender probation are
23 subject to revocation of probation as provided in s. 948.06.

24 Section 5. For the purpose of incorporating the
25 amendment to section 893.03, Florida Statutes, in references
26 thereto, paragraphs (b), (c), and (e) of subsection (3) of
27 section 921.0022, Florida Statutes, are reenacted to read:

28 921.0022 Criminal Punishment Code; offense severity
29 ranking chart.--

30 (3) OFFENSE SEVERITY RANKING CHART

31

1	Florida	Felony	
2	Statute	Degree	Description
3			
4			
5			(b) LEVEL 2
6	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
7			lbs. in weight or 100 cubic feet
8			in volume or any quantity for
9			commercial purposes, or hazardous
10			waste.
11	517.07	3rd	Registration of securities and
12			furnishing of prospectus
13			required.
14	590.28(1)	3rd	Willful, malicious, or
15			intentional burning.
16	784.05(3)	3rd	Storing or leaving a loaded
17			firearm within reach of minor who
18			uses it to inflict injury or
19			death.
20	787.04(1)	3rd	In violation of court order,
21			take, entice, etc., minor beyond
22			state limits.
23	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
24			or more to public communication
25			or any other public service.
26	810.09(2)(e)	3rd	Trespassing on posted commercial
27			horticulture property.
28	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
29			more but less than \$5,000.
30			
31			

1	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
2			more but less than \$300, taken
3			from unenclosed curtilage of
4			dwelling.
5	817.234(1)(a)2.	3rd	False statement in support of
6			insurance claim.
7	817.481(3)(a)	3rd	Obtain credit or purchase with
8			false, expired, counterfeit,
9			etc., credit card, value over
10			\$300.
11	817.52(3)	3rd	Failure to redeliver hired
12			vehicle.
13	817.54	3rd	With intent to defraud, obtain
14			mortgage note, etc., by false
15			representation.
16	817.60(5)	3rd	Dealing in credit cards of
17			another.
18	817.60(6)(a)	3rd	Forgery; purchase goods, services
19			with false card.
20	817.61	3rd	Fraudulent use of credit cards
21			over \$100 or more within 6
22			months.
23	826.04	3rd	Knowingly marries or has sexual
24			intercourse with person to whom
25			related.
26	831.01	3rd	Forgery.
27	831.02	3rd	Uttering forged instrument;
28			utters or publishes alteration
29			with intent to defraud.
30	831.07	3rd	Forging bank bills or promissory
31			note.

1	831.08	3rd	Possession of 10 or more forged
2			notes.
3	831.09	3rd	Uttering forged bills; passes as
4			bank bill or promissory note.
5	832.05(3)(a)	3rd	Cashing or depositing item with
6			intent to defraud.
7	843.08	3rd	Falsely impersonating an officer.
8	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
9			(2)(c)1., (2)(c)2., (2)(c)3.,
10			(2)(c)5., (2)(c)6., (2)(c)7.,
11			(2)(c)8., (2)(c)9., (3), or (4)
12			drugs other than cannabis.
13	893.147(2)	3rd	Manufacture or delivery of drug
14			paraphernalia.
15			(c) LEVEL 3
16	316.1935(2)	3rd	Fleeing or attempting to elude
17			law enforcement officer in marked
18			patrol vehicle with siren and
19			lights activated.
20	319.30(4)	3rd	Possession by junkyard of motor
21			vehicle with identification
22			number plate removed.
23	319.33(1)(a)	3rd	Alter or forge any certificate of
24			title to a motor vehicle or
25			mobile home.
26	319.33(1)(c)	3rd	Procure or pass title on stolen
27			vehicle.
28	319.33(4)	3rd	With intent to defraud, possess,
29			sell, etc., a blank, forged, or
30			unlawfully obtained title or
31			registration.

1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	815.04(4)(b)	2nd	Computer offense devised to
30			defraud or obtain property.
31			

1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	828.12(2)	3rd	Tortures any animal with intent
7			to inflict intense pain, serious
8			physical injury, or death.
9	831.29	2nd	Possession of instruments for
10			counterfeiting drivers' licenses
11			or identification cards.
12	838.021(3)(b)	3rd	Threatens unlawful harm to public
13			servant.
14	843.19	3rd	Injure, disable, or kill police
15			dog or horse.
16	870.01(2)	3rd	Riot; inciting or encouraging.
17	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
18			cannabis (or other s.
19			893.03(1)(c), (2)(c)1., (2)(c)2.,
20			(2)(c)3., (2)(c)5., (2)(c)6.,
21			(2)(c)7., (2)(c)8., (2)(c)9.,
22			(3), or (4) drugs).
23	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
24			893.03(1)(c), (2)(c)1., (2)(c)2.,
25			(2)(c)3., (2)(c)5., (2)(c)6.,
26			(2)(c)7., (2)(c)8., (2)(c)9.,
27			(3), or (4) drugs within 200 feet
28			of university or public park.
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1	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 200 feet
6			of public housing facility.
7	893.13(6)(a)	3rd	Possession of any controlled
8			substance other than felony
9			possession of cannabis.
10	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
11			controlled substance by fraud,
12			forgery, misrepresentation, etc.
13	893.13(7)(a)11.	3rd	Furnish false or fraudulent
14			material information on any
15			document or record required by
16			chapter 893.
17	918.13(1)(a)	3rd	Alter, destroy, or conceal
18			investigation evidence.
19	944.47		
20	(1)(a)1.-2.	3rd	Introduce contraband to
21			correctional facility.
22	944.47(1)(c)	2nd	Possess contraband while upon the
23			grounds of a correctional
24			institution.
25	985.3141	3rd	Escapes from a juvenile facility
26			(secure detention or residential
27			commitment facility).
28			(e) LEVEL 5
29	316.027(1)(a)	3rd	Accidents involving personal
30			injuries, failure to stop;
31			leaving scene.

1	316.1935(4)	2nd	Aggravated fleeing or eluding.
2	322.34(6)	3rd	Careless operation of motor
3			vehicle with suspended license,
4			resulting in death or serious
5			bodily injury.
6	327.30(5)	3rd	Vessel accidents involving
7			personal injury; leaving scene.
8	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
9			knowing HIV positive.
10	790.01(2)	3rd	Carrying a concealed firearm.
11	790.162	2nd	Threat to throw or discharge
12			destructive device.
13	790.163	2nd	False report of deadly explosive.
14	790.165(2)	3rd	Manufacture, sell, possess, or
15			deliver hoax bomb.
16	790.221(1)	2nd	Possession of short-barreled
17			shotgun or machine gun.
18	790.23	2nd	Felons in possession of firearms
19			or electronic weapons or devices.
20	800.04(6)(c)	3rd	Lewd or lascivious conduct;
21			offender less than 18 years.
22	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
23			offender 18 years or older.
24	806.111(1)	3rd	Possess, manufacture, or dispense
25			fire bomb with intent to damage
26			any structure or property.
27	812.019(1)	2nd	Stolen property; dealing in or
28			trafficking in.
29	812.131(2)(b)	3rd	Robbery by sudden snatching.
30	812.16(2)	3rd	Owning, operating, or conducting
31			a chop shop.

1	817.034(4)(a)2.	2nd	Communications fraud, value
2			\$20,000 to \$50,000.
3	825.1025(4)	3rd	Lewd or lascivious exhibition in
4			the presence of an elderly person
5			or disabled adult.
6	827.071(4)	2nd	Possess with intent to promote
7			any photographic material, motion
8			picture, etc., which includes
9			sexual conduct by a child.
10	843.01	3rd	Resist officer with violence to
11			person; resist arrest with
12			violence.
13	874.05(2)	2nd	Encouraging or recruiting another
14			to join a criminal street gang;
15			second or subsequent offense.
16	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
17			cocaine (or other s.
18			893.03(1)(a), (1)(b), (1)(d),
19			(2)(a), (2)(b), or (2)(c)4.
20			drugs).
21	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
22			cannabis (or other s.
23			893.03(1)(c), (2)(c)1., (2)(c)2.,
24			(2)(c)3., (2)(c)5., (2)(c)6.,
25			(2)(c)7., (2)(c)8., (2)(c)9.,
26			(3), or (4) drugs) within 1,000
27			feet of a child care facility or
28			school.
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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), (2)(b), or (2)(c)4.
5 drugs) within 200 feet of
6 university or public park.
7 893.13(1)(e)2. 2nd Sell, manufacture, or deliver
8 cannabis or other drug prohibited
9 under s. 893.03(1)(c), (2)(c)1.,
10 (2)(c)2., (2)(c)3., (2)(c)5.,
11 (2)(c)6., (2)(c)7., (2)(c)8.,
12 (2)(c)9., (3), or (4) within
13 1,000 feet of property used for
14 religious services or a specified
15 business site.
16 893.13(1)(f)1. 1st Sell, manufacture, or deliver
17 cocaine (or other s.
18 893.03(1)(a), (1)(b), (1)(d), or
19 (2)(a), (2)(b), or (2)(c)4.
20 drugs) within 200 feet of public
21 housing facility.
22 893.13(4)(b) 2nd Deliver to minor cannabis (or
23 other s. 893.03(1)(c), (2)(c)1.,
24 (2)(c)2., (2)(c)3., (2)(c)5.,
25 (2)(c)6., (2)(c)7., (2)(c)8.,
26 (2)(c)9., (3), or (4) drugs).
27 Section 6. This act shall take effect July 1, 2001.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 232

- Provides that, for the purpose of charging trafficking, the weight of the hydrocodone, or any other controlled substance, in a mixture is the weight of the mixture.
- Provides that if there is more than one mixture containing hydrocodone or any other controlled substance, the weight of the hydrocodone or other controlled substance is calculated by aggregating the weight of each mixture.
- Provides legislative findings that, for the purpose of charging trafficking, the weight of hydrocodone, or any other controlled substance, in a mixture is the weight of the mixture.