

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Gaetz offered the following:

**Amendment (with title amendment)**

Between lines 10 and 11, insert:

Section 1. Subsections (1) and (4) of section 893.13, Florida Statutes, are amended to read:

893.13 Prohibited acts; penalties.—

(1) (a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

- 1. A controlled substance named or described in s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4., commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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17           2. A controlled substance named or described in s.  
18 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
19 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
20 the third degree, punishable as provided in s. 775.082, s.  
21 775.083, or s. 775.084.

22           3. A controlled substance named or described in s.  
23 893.03(5) commits a misdemeanor of the first degree, punishable  
24 as provided in s. 775.082 or s. 775.083.

25           (b) Except as provided in this chapter, it is unlawful to  
26 sell or deliver in excess of 10 grams of any substance named or  
27 described in s. 893.03(1)(a) or (1)(b), or any combination  
28 thereof, or any mixture containing any such substance. Any  
29 person who violates this paragraph commits a felony of the first  
30 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
31 775.084.

32           (c) Except as authorized by this chapter, it is unlawful  
33 for any person to sell, manufacture, or deliver, or possess with  
34 intent to sell, manufacture, or deliver, a controlled substance  
35 in, on, or within 1,000 feet of the real property comprising a  
36 child care facility as defined in s. 402.302 or a public or  
37 private elementary, middle, or secondary school between the  
38 hours of 6 a.m. and 12 midnight, or at any time in, on, or  
39 within 1,000 feet of real property comprising a state, county,  
40 or municipal park, a community center, or a publicly owned  
41 recreational facility. For the purposes of this paragraph, the  
42 term "community center" means a facility operated by a nonprofit  
43 community-based organization for the provision of recreational,

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44 social, or educational services to the public. Any person who  
45 violates this paragraph with respect to:

46 1. A controlled substance named or described in s.  
47 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
48 commits a felony of the first degree, punishable as provided in  
49 s. 775.082, s. 775.083, or s. 775.084. The defendant must be  
50 sentenced to a minimum term of imprisonment of 3 calendar years  
51 unless the offense was committed within 1,000 feet of the real  
52 property comprising a child care facility as defined in s.  
53 402.302.

54 2. A controlled substance named or described in s.  
55 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
56 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
57 the second degree, punishable as provided in s. 775.082, s.  
58 775.083, or s. 775.084.

59 3. Any other controlled substance, except as lawfully  
60 sold, manufactured, or delivered, must be sentenced to pay a  
61 \$500 fine and to serve 100 hours of public service in addition  
62 to any other penalty prescribed by law.

63  
64 This paragraph does not apply to a child care facility unless  
65 the owner or operator of the facility posts a sign that is not  
66 less than 2 square feet in size with a word legend identifying  
67 the facility as a licensed child care facility and that is  
68 posted on the property of the child care facility in a  
69 conspicuous place where the sign is reasonably visible to the  
70 public.

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71 (d) Except as authorized by this chapter, it is unlawful  
72 for any person to sell, manufacture, or deliver, or possess with  
73 intent to sell, manufacture, or deliver, a controlled substance  
74 in, on, or within 1,000 feet of the real property comprising a  
75 public or private college, university, or other postsecondary  
76 educational institution. Any person who violates this paragraph  
77 with respect to:

78 1. A controlled substance named or described in s.  
79 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
80 commits a felony of the first degree, punishable as provided in  
81 s. 775.082, s. 775.083, or s. 775.084.

82 2. A controlled substance named or described in s.  
83 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
84 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
85 the second degree, punishable as provided in s. 775.082, s.  
86 775.083, or s. 775.084.

87 3. Any other controlled substance, except as lawfully  
88 sold, manufactured, or delivered, must be sentenced to pay a  
89 \$500 fine and to serve 100 hours of public service in addition  
90 to any other penalty prescribed by law.

91 (e) Except as authorized by this chapter, it is unlawful  
92 for any person to sell, manufacture, or deliver, or possess with  
93 intent to sell, manufacture, or deliver, a controlled substance  
94 not authorized by law in, on, or within 1,000 feet of a physical  
95 place for worship at which a church or religious organization  
96 regularly conducts religious services or within 1,000 feet of a  
97 convenience business as defined in s. 812.171. Any person who  
98 violates this paragraph with respect to:

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99 1. A controlled substance named or described in s.  
100 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
101 commits a felony of the first degree, punishable as provided in  
102 s. 775.082, s. 775.083, or s. 775.084.

103 2. A controlled substance named or described in s.  
104 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
105 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
106 the second degree, punishable as provided in s. 775.082, s.  
107 775.083, or s. 775.084.

108 3. Any other controlled substance, except as lawfully  
109 sold, manufactured, or delivered, must be sentenced to pay a  
110 \$500 fine and to serve 100 hours of public service in addition  
111 to any other penalty prescribed by law.

112 (f) Except as authorized by this chapter, it is unlawful  
113 for any person to sell, manufacture, or deliver, or possess with  
114 intent to sell, manufacture, or deliver, a controlled substance  
115 in, on, or within 1,000 feet of the real property comprising a  
116 public housing facility at any time. For purposes of this  
117 section, the term "real property comprising a public housing  
118 facility" means real property, as defined in s. 421.03(12), of a  
119 public corporation created as a housing authority pursuant to  
120 part I of chapter 421. Any person who violates this paragraph  
121 with respect to:

122 1. A controlled substance named or described in s.  
123 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
124 commits a felony of the first degree, punishable as provided in  
125 s. 775.082, s. 775.083, or s. 775.084.

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126           2. A controlled substance named or described in s.  
127 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
128 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
129 the second degree, punishable as provided in s. 775.082, s.  
130 775.083, or s. 775.084.

131           3. Any other controlled substance, except as lawfully  
132 sold, manufactured, or delivered, must be sentenced to pay a  
133 \$500 fine and to serve 100 hours of public service in addition  
134 to any other penalty prescribed by law.

135           (g) Except as authorized by this chapter, it is unlawful  
136 for any person to manufacture methamphetamine or phencyclidine,  
137 or possess any listed chemical as defined in s. 893.033 in  
138 violation of s. 893.149 and with intent to manufacture  
139 methamphetamine or phencyclidine. If any person violates this  
140 paragraph and:

141           1. The commission or attempted commission of the crime  
142 occurs in a structure or conveyance where any child under 16  
143 years of age is present, the person commits a felony of the  
144 first degree, punishable as provided in s. 775.082, s. 775.083,  
145 or s. 775.084. In addition, the defendant must be sentenced to a  
146 minimum term of imprisonment of 5 calendar years.

147           2. The commission of the crime causes any child under 16  
148 years of age to suffer great bodily harm, the person commits a  
149 felony of the first degree, punishable as provided in s.  
150 775.082, s. 775.083, or s. 775.084. In addition, the defendant  
151 must be sentenced to a minimum term of imprisonment of 10  
152 calendar years.

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153 (h) Except as authorized by this chapter, it is unlawful  
154 for any person to sell, manufacture, or deliver, or possess with  
155 intent to sell, manufacture, or deliver, a controlled substance  
156 in, on, or within 1,000 feet of the real property comprising an  
157 assisted living facility, as that term is used in chapter 429.  
158 Any person who violates this paragraph with respect to:

159 1. A controlled substance named or described in s.  
160 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
161 commits a felony of the first degree, punishable as provided in  
162 s. 775.082, s. 775.083, or s. 775.084.

163 2. A controlled substance named or described in s.  
164 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
165 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
166 the second degree, punishable as provided in s. 775.082, s.  
167 775.083, or s. 775.084.

168 (i) A person convicted of a violation of paragraph (c),  
169 (e), or (f) committed on or after July 1, 2013, is not eligible  
170 for statutory gain-time under s. 944.275, conditional medical  
171 release under s. 947.149, or any form of discretionary early  
172 release, other than pardon or executive clemency.

173 (4) Except as authorized by this chapter, it is unlawful  
174 for any person 18 years of age or older to deliver any  
175 controlled substance to a person under the age of 18 years, or  
176 to use or hire a person under the age of 18 years as an agent or  
177 employee in the sale or delivery of such a substance, or to use  
178 such person to assist in avoiding detection or apprehension for  
179 a violation of this chapter. Any person who violates this  
180 provision with respect to:

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181 (a) A controlled substance named or described in s.  
182 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
183 commits a felony of the first degree, punishable as provided in  
184 s. 775.082, s. 775.083, or s. 775.084.

185 (b) A controlled substance named or described in s.  
186 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
187 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
188 the second degree, punishable as provided in s. 775.082, s.  
189 775.083, or s. 775.084.

190  
191 Imposition of sentence may not be suspended or deferred, nor  
192 shall the person so convicted be placed on probation. A person  
193 convicted of a violation of this subsection committed on or  
194 after July 1, 2013, is not eligible for statutory gain-time  
195 under s. 944.275, conditional medical release under s. 947.149,  
196 or any form of discretionary early release, other than pardon or  
197 executive clemency.

198  
199 -----  
200 **T I T L E A M E N D M E N T**

201 Remove line 3 and insert:  
202 violations; amending s. 893.13, F.S.; making persons  
203 convicted of specified controlled substance offenses  
204 ineligible for statutory gain-time, conditional medical  
205 release, or forms of discretionary early release; amending  
206 s. 893.135, F.S.; revising