

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 150

INTRODUCER: Senator Steube and others

SUBJECT: Controlled Substances

DATE: March 31, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Hrdlicka	CJ	<b>Pre-meeting</b>
2.			JU	
3.			ACJ	
4.			AP	

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**I. Summary:**

SB 150 punishes drug acts involving certain Schedule I and Schedule II controlled substances when those acts are committed in a dwelling. The bill also punishes possession with intent to distribute fentanyl and other drugs when the use of any of these substances results in death.

The bill creates the offenses of trafficking in fentanyl and trafficking in certain synthetic drugs. There are mandatory minimum terms of imprisonment and mandatory fines for such trafficking, which are based upon the quantity involved.

The Criminal Justice Impact Conference estimates that the bill will have a “positive significant” prison bed impact (an increase of more than 25 prison beds).

**II. Present Situation:**

**Florida’s Controlled Substance Schedules**

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the statute. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”<sup>1</sup> of the substance and whether there is a currently accepted medical use for the substance.<sup>2</sup> The controlled substance schedules are described as follows:

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<sup>1</sup> Pursuant to s. 893.035(3)(a), F.S., “potential for abuse” means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that create a hazard to the user’s health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user’s own initiative rather than on the basis of professional medical advice.

<sup>2</sup> See s. 893.03, F.S.

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and have no currently accepted medical use in the United States. This schedule includes cannabis, heroin, and several fentanyl analogs<sup>3</sup> or derivatives.<sup>4</sup>
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States. This schedule includes cocaine, codeine, hydrocodone, oxycodone, fentanyl, and several fentanyl analogs or derivatives.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States. This schedule includes stimulants and anabolic steroids.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to the substances in Schedule III and have a currently accepted medical use in the United States. This schedule includes benzodiazepines and barbiturates.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States. This schedule includes mixtures that contain small quantities of opiates and codeine.

### **Punishment of Prohibited Drug Acts**

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance. The penalty for violating s. 893.13, F.S., depends on the act, the substance and quantity of the substance involved in the act, and the location in which the violation occurred. For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., which includes many synthetic opioids, is a third degree felony.<sup>5</sup> However, if that substance is sold within 1,000 feet of the real property of a child care facility or secondary school, the violation is a second degree felony.<sup>6</sup>

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession of, certain controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of controlled substances. The quantity of the substance must meet a specified weight threshold. Most drug trafficking offenses are first degree felonies<sup>7</sup> and are subject to mandatory minimum terms and mandatory fines, which are based on the quantity involved.

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<sup>3</sup> An “analog” is “[a] drug whose structure is related to that of another drug but whose chemical and biological properties may be quite different.” Chemistry-Dictionary.com, available at <http://www.chemistry-dictionary.com/definition/analog.php> (last visited on March 20, 2017).

<sup>4</sup> A “derivative” is “a chemical compound that may be produced from another compound of similar structure in one or more steps, as in replacement of H by an alkyl, acyl, or amino group.” Drugs.com, available at <https://www.drugs.com/dict/derivative.html> (last visited on March 20, 2017).

<sup>5</sup> Section 893.13(1)(a)2., F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

<sup>6</sup> Section 893.13(1)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>7</sup> A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S.

## Fentanyl and Related Drugs

Fentanyl is a Schedule II controlled substance.<sup>8</sup> Some fentanyl analogs or derivatives, such as alfentanil,<sup>9</sup> carfentanil,<sup>10</sup> and sufentanil,<sup>11</sup> are also Schedule II controlled substances.<sup>12</sup> It is a second degree felony to possess alfentanil, carfentanil, or fentanyl with the intent to sell, manufacture, or deliver them, or to unlawfully sell, manufacture, or deliver any of these substances.<sup>13</sup>

“Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent.”<sup>14</sup> When prescribed by a physician, fentanyl is typically used to treat patients with severe pain or to manage pain after surgery and is administered via injection, transdermal patch, or in lozenges.<sup>15</sup> Although prescription fentanyl can be misused, most overdoses and related deaths have been linked to illicitly-manufactured fentanyl, including fentanyl analogs.<sup>16</sup> Illicitly-manufactured fentanyl is produced in clandestine laboratories and may be sold as a powder, spiked on blotter paper, mixed with heroin, or as tablets made to look like other, less potent opioids.<sup>17</sup> Fentanyl and its analogs may be mixed into other drugs and sold without the customer’s knowledge of the presence of fentanyl.<sup>18</sup>

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<sup>8</sup> Section 893.03(2)(b)9., F.S.

<sup>9</sup> Alfentanil is “a short-acting opioid anesthetic and analgesic derivative of [fentanyl]. It produces an early peak analgesic effect and fast recovery of consciousness. Alfentanil is effective as an anesthetic during surgery, for supplementation of analgesia during surgical procedures, and as an analgesic for critically ill patients.” “Alfentanil,” National Center for Biotechnology Information, U.S. National Library of Medicine, *available at* <https://pubchem.ncbi.nlm.nih.gov/compound/51263> (last visited on March 20, 2017).

<sup>10</sup> Carfentanil is a fentanyl derivative. “Fentanyl Drug Profile,” European Monitoring Centre for Drug and Drug Addiction, *available at* <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 20, 2017). The drug “is one of the most potent opioids known (also the most potent opioid used commercially).” “Carfentanil,” National Center for Biotechnology Information, U.S. National Library of Medicine, *available at* <https://pubchem.ncbi.nlm.nih.gov/compound/carfentanil> (last visited on March 20, 2017). The drug “has a quantitative potency approximately 10,000 times that of morphine and 100 times that of fentanyl, with activity in humans starting at about 1 microgram. It is marketed ... as a general anesthetic agent for large animals. Carfentanil is intended for large-animal use only as its extreme potency makes it inappropriate for use in humans. Currently sufentanil, approximately 10-20 times less potent (500 to 1000 times the efficacy of morphine per weight) than carfentanil, is the maximum strength fentanyl analog for use in humans.” *Id.*

<sup>11</sup> Sufentanil is a fentanyl derivative. “Fentanyl Drug Profile,” European Monitoring Centre for Drug and Drug Addiction, *available at* <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 20, 2017). The drug “is an opioid analgesic that is used as an adjunct in anesthesia, in balanced anesthesia, and as a primary anesthetic agent.” “Sufentanil,” National Center for Biotechnology Information, U.S. National Library of Medicine, *available at* <https://pubchem.ncbi.nlm.nih.gov/compound/41693> (last visited on March 20, 2017).

<sup>12</sup> Section 893.03(2)(b)1., 6., and 29., F.S.

<sup>13</sup> Section 893.13(1)(a)1., F.S.

<sup>14</sup> “Fentanyl” (revised June 2016), National Institute on Drug Abuse, *available at* <https://www.drugabuse.gov/publications/drugfacts/fentanyl> (last visited on March 20, 2017). “The estimated lethal dose of fentanyl in humans is 2 mg.” “Fentanyl Drug Profile,” European Monitoring Centre for Drug and Drug Addiction, *available at* <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 20, 2017).

<sup>15</sup> *Id.*

<sup>16</sup> “Increases in Fentanyl-Related Overdose Deaths-Florida and Ohio, 2013-2015,” *Morbidity and Mortality Weekly Report* (August 26, 2016), Centers for Disease Control and Prevention, *available at* <https://www.cdc.gov/mmwr/volumes/65/wr/mm6533a3.htm> (last visited on March 20, 2017).

<sup>17</sup> “Fentanyl” (revised June 2016), National Institute on Drug Abuse, *available at* <https://www.drugabuse.gov/publications/drugfacts/fentanyl> (last visited on March 20, 2017).

<sup>18</sup> For example, the National Institute on Drug Abuse has noted that “it is likely that carfentanil is being added to mixtures of heroin and other street drugs.” “Alert Issued in Ohio for Human Use of Animal Sedative Carfentanil, with Cases Also Seen in

According to a recent report by the Centers for Disease Control and Prevention (CDC), during 2013–2014, fentanyl submissions<sup>19</sup> increased 494 percent in Florida (from 33 to 196), concurrent with a 115 percent increase in fentanyl deaths in Florida (from 185 to 397).<sup>20</sup> Fentanyl analogs were specifically implicated in 49 drug overdose deaths in Florida between January and June 2015.<sup>21</sup> According to the 2015 Annual Report (dated September 2016) of the Florida Medical Examiners, there were 911 deaths in which fentanyl was present (206) or deemed the cause of death (705).<sup>22</sup> Further, 99 of the deaths associated with fentanyl only had that drug in their system, while the rest were in combination with another drug.<sup>23</sup>

### **Synthetic Cannabinoids, Cathinone Derivatives, and Phenethylamines**

Section 893.03(1)(c), F.S., lists numerous substances described as “hallucinogenic substances.” Many of them appear to be synthetic cannabinoids, cathinone derivatives, and phenethylamines. “Synthetic [c]annabinoids are chemicals that act as cannabinoid receptor agonists. Chemically they are not similar to cannabinoids but . . . they are cannabinoid-like in their activity.”<sup>24</sup>

Cathinone is a Schedule I controlled substance.<sup>25</sup> The “molecular architecture” of cathinone “can be altered to produce a series of different compounds which are closely structurally related to cathinone.”<sup>26</sup>

“Phenethylamines” is a broad category of “psychoactive substances.”<sup>27</sup> Probably the most well-known phenethylamine is 3,4-Methylenedioxymethamphetamine (MDMA), which is often referred to by the street name “Ecstasy.”

### **III. Effect of Proposed Changes:**

The bill, which takes effect October 1, 2017, punishes drug acts involving certain Schedule I and Schedule II controlled substances when those acts are committed in a dwelling. The bill also

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Florida” (August 23, 2016), National Institute on Drug Abuse, available at <https://www.drugabuse.gov/drugs-abuse/emerging-trends-alerts> (last visited on March 20, 2017).

<sup>19</sup> In this context, “submissions” means “drug products obtained by law enforcement that tested positive for fentanyl.” *Id.*

<sup>20</sup> “Increases in Fentanyl-Related Overdose Deaths—Florida and Ohio, 2013-2015,” *Morbidity and Mortality Weekly Report* (August 26, 2016), Centers for Disease Control and Prevention, available at <https://www.cdc.gov/mmwr/volumes/65/wr/mm6533a3.htm> (last visited on March 20, 2017).

<sup>21</sup> *Id.*

<sup>22</sup> *Drugs Identified in Deceased Persons* (2015 Annual Report) (September 2016), p. 3, Florida Medical Examiners Commission, available at <http://www.fdle.state.fl.us/cms/MEC/Publications-and-Forms.aspx> (last visited on March 20, 2017).

<sup>23</sup> *Id.* at p. 30.

<sup>24</sup> “Synthetic Cannabinoids Drug Information,” Redwood Toxicology Laboratory, available at [https://www.redwoodtoxicology.com/resources/drug\\_info/synthetic\\_cannabinoids](https://www.redwoodtoxicology.com/resources/drug_info/synthetic_cannabinoids) (last visited on March 20, 2017).

<sup>25</sup> Section 893.03(1)(c)8., F.S.

<sup>26</sup> *Consideration of the cathinones* (March 2010), p. 6, Advisory Council on the Misuse of Drugs, United Kingdom, available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/119173/acmd-cathinodes-report-2010.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/119173/acmd-cathinodes-report-2010.pdf) (last visited on March 20, 2017).

<sup>27</sup> Sanders B., Lankenau S., Bloom J., and Hathazi D. “‘Research chemicals’: Tryptamine and Phenethylamine Use Among High Risk Youth,” *Substance Use & Misuse* (2008) 43(3-4): 389, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/> (last visited on March 20, 2017).

punishes possession with intent to distribute fentanyl and other specified drugs when it results in a death.

The bill creates the offenses of trafficking in fentanyl and trafficking in certain synthetic drugs. There are mandatory minimum terms of imprisonment and mandatory fines for such trafficking, which are determined based upon the quantity involved.

A full description of the provisions of the bill is provided below.

### **Prohibited Drug Acts Committed in a Dwelling (Section 1)**

Section 1 of the bill amends s. 893.13(1)(a)1., F.S., to create a 3-year mandatory minimum term for a violation of this subparagraph, if the violation occurred in a dwelling. Subparagraph (1)(a)1., F.S., currently provides that it is second degree felony to sell, manufacture, or deliver a controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., F.S. (certain Schedule I or II controlled substances). Examples of such substances are flunitrazepam (“roofies”), heroin, gamma-butyrolactone (GBL), hydrocodone, oxycodone, cocaine, and methamphetamine. Many of these substances have no medical uses. Some of these substances, such as hydrocodone and oxycodone, have medical uses but are frequently diverted from the legal market for illegal use.

### **Possession with Intent to Distribute Fentanyl and Other Drugs Which Results in Death (Section 1)**

Section 1 of the bill also creates s. 893.13(11), F.S. New subsection (11) provides that it is a third degree felony to knowingly and intentionally possess with intent to distribute a quantity of a substance or mixture containing detectable amounts of a controlled substance named or described in s. 893.03(2)(a)4. and (2)(b)9., F.S., when the use of any of these substances results in death. Section 893.03(2)(a)4., F.S., covers such substances as codeine, hydrocodone, and oxycodone. Section 893.03(2)(b)9., F.S., covers such substances as fentanyl and several fentanyl analogs or derivatives.

### **Trafficking in Fentanyl (Section 2)**

Section 2 of the bill amends s. 893.135, F.S., to punish trafficking in fentanyl (described below). The first degree felonies for trafficking in fentanyl are not ranked in the offense severity ranking chart of the Criminal Punishment Code (Code) provided in s. 921.0022, F.S., so they will be assigned a Level 7 ranking pursuant to s. 921.0023, F.S. (ranking offenses not ranked in the chart).

The bill provides that knowingly selling, purchasing, manufacturing, delivering, or bringing into the state, or knowingly being in actual or constructive possession of, 4 grams or more of fentanyl, or any salt, derivative, isomer, or salt of an isomer thereof, or 4 grams or more of any mixture containing any such substance, is “trafficking in fentanyl,” a first degree felony. This offense includes mandatory minimum terms of imprisonment and mandatory fines, which are based on the quantity involved:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 4 grams or more, but less than 14 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 14 grams or more, but less than 28 grams; and
- A 15-year mandatory minimum term and a mandatory fine of \$500,000, if the quantity involved is 28 grams or more, but less than 30 kilograms.

The bill also provides that knowingly selling, purchasing, manufacturing, delivering, or bringing into the state, or knowingly being in actual or constructive possession of 30 kilograms or more of fentanyl is “trafficking in illegal drugs,” a first degree felony punishable by life imprisonment. However, a person commits the capital felony<sup>28</sup> of “trafficking in illegal drugs” if the court determines that, in addition to committing the act:

- The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or
- The person’s conduct in committing that act led to a natural, though not inevitable, lethal result.

Section 893.135(1)(c)5., F.S., currently punishes “capital importation of illegal drugs” (such as hydrocodone and oxycodone). The bill does not punish capital importation of fentanyl.

### **Trafficking in Synthetic Drugs (Sections 2 and 3)**

Section 2 of the bill amends s. 893.135, F.S., to punish trafficking in synthetic drugs. The bill provides that knowingly selling, purchasing, manufacturing, delivering, or bringing into the state, or knowingly being in actual or constructive possession of, 250 grams or more of a controlled substance described in s. 893.03(1)(c)46.-50., 114.-142., 151.-159., or 166.-173., F.S. (synthetic cannabinoids), or any mixture containing any such substance, is “trafficking in synthetic drugs,” a first degree felony. This offense includes mandatory minimum terms of imprisonment and mandatory fines, which are based on the quantity involved:

- A 3-year mandatory minimum term and a fine of \$25,000, if the quantity involved is 250 grams or more, but less than 500 grams;
- A 7-year mandatory minimum term and a fine of \$50,000, if the quantity involved is 500 grams or more, but less than 1,000 grams;
- A 15-year mandatory minimum term and a \$200,000 fine, if the quantity involved is 1,000 grams or more, but less than 30 kilograms; and
- A 25-year mandatory minimum term and a \$750,000 fine, if the quantity involved is 30 kilograms or more.

Section 3 amends s. 921.0022, F.S., the Code offense severity ranking chart, to rank most of the first degree felonies for trafficking in synthetic drugs in Level 7 of the chart. Trafficking in 1,000 grams or more, but less than 30 kilograms, of a listed synthetic drug is not ranked in the chart, so it will be assigned a Level 7 ranking pursuant to s. 921.0023, F.S. Another first degree felony (trafficking in 30 kilograms or more of a listed synthetic drug) is ranked in Level 9 of the chart.

<sup>28</sup> A capital drug trafficking felony is generally punishable by life imprisonment or a death sentence. Sections 775.082 and 921.142, F.S. Additionally, under s. 893.135(1)(c)4., F.S., a person sentenced for this capital felony must pay a fine of \$500,000.

**Ranking Trafficking in LSD (Section 3)**

Section 893.135(1)(l), F.S., currently punishes trafficking in lysergic acid diethylamide (LSD). The first degree felonies relating to this offense are not ranked in the Code offense severity ranking chart in s. 921.0022, F.S., so they are assigned a Level 7 ranking pursuant to s. 921.0023, F.S.

Section 3 amends s. 921.0022, F.S., to rank the first degree felony of trafficking in LSD (1 gram or more, but less than 5 grams) in the chart. However, none of the other first degree felonies relating to trafficking in LSD are ranked in the chart.

**Reenactments (Sections 4-25)**

Sections 4-25 of the bill reenact, respectively ss. 112.0455, 397.451, 435.07, 775.084, 831.311, 893.138, 921.187, 373.6055, 397.451, 414.095, 775.087, 782.04, 893.03, 907.041, 921.0024, 943.0585, 943.059, 772.12, 810.02, 812.014, 893.1351, and 903.133, F.S.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

### C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any of legislation, estimates that the bill will have a “positive significant” prison bed impact (an increase of more than 25 prison beds).<sup>29</sup>

It is unknown how many offenders sold, manufactured, or delivered, or possessed with intent to sell, manufacture, or deliver, a controlled substance (s. 893.13, F.S.) inside a dwelling, but given the large number of offenders sentenced under this statute in FY 2015-2016 (10,849 adj.),<sup>30</sup> with 3,837 (adj.) receiving a prison sentence (mean sentence length of 36.1 months), the dwelling offense could significantly increase both prison sentences and sentence length.

Per the Florida Department of Law Enforcement (FDLE), in FY 2015-2016, one person was arrested for selling fentanyl, and two people received a conviction/adjudication withheld. The Department of Corrections (DOC) does not track the number of admissions to prison for fentanyl, so that population is unknown. Per the DOC, one person was charged with drug-related first degree murder, and that person was sentenced to prison (sentence length of 24 months).

Per the DOC, in FY 2015-2016, there were 487 (adj.) offenders sentenced for trafficking offenses similar to fentanyl (heroin included) between 4 and 14 grams. There were 363 (adj.) sentenced to prison (mean sentence length of 62.1 months and an incarceration rate of 74.6 percent adj. and 74.5 percent unadj.). There were 126 (adj.) offenders sentenced for trafficking between 14 and 28 grams, and 102 (adj.) of these offenders were sentenced to prison (mean sentence length of 94.6 months and an incarceration rate of 81.0 percent adj. and 81.0 percent unadj.). There were 81 (adj.) offenders sentenced for trafficking between 28 grams and 30 kilograms, and 64 (adj.) of these offenders were sentenced to prison (mean sentence length of 144.5 months and an incarceration rate of 79.0 percent adj. and 79.1 percent unadj.). No offenders were sentenced above 30 kilograms.

The only other current trafficking offenses that pertain to s. 893.03(1)(c), F.S., involve MDMA and phenethylamines, both of them combined in the DOC’s data. Per the DOC, in FY 2015-2016, there were 41 (adj.) offenders sentenced for trafficking between 10 and 200 grams of these drugs. There were 26 (adj.) sentenced to prison (mean sentence length of 45.6 months and an incarceration rate of 63.4 percent adj. and 64.7 percent unadj.). There were two offenders sentenced for trafficking between 200 and 400 grams of these drugs, and none of those offenders were sentenced to prison. There was also one (adj.) offender sentenced for trafficking in over 400 grams of these drugs in FY 2015-2016, and that offender was sentenced to prison (sentence length of 84.0 months). No offenders were sentenced above 30 kilograms.

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<sup>29</sup> E-mail, dated March 21, 2017, to staff of the Senate Committee on Criminal Justice from staff of the Office of Economic and Demographic Research. All information in this section of the analysis is from this source.

<sup>30</sup> “Adj.” is an abbreviation for “adjusted.” “Unadj.” is an abbreviation for “unadjusted.” Sentencing data from the DOC is incomplete, which means that the numbers the EDR receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

Per the DOC, in FY 2015-2016, there were no offenders sentenced for trafficking in LSD between 1 and 5 grams.

## **VI. Technical Deficiencies:**

The bill creates first degree felonies for trafficking in fentanyl but does not rank these felonies in the Code offense severity ranking chart provided in s. 921.0022, F.S. The bill also ranks some of the first degree felonies involving trafficking in synthetic drugs and LSD but omits ranking others in the chart.

Typically, the rankings of trafficking first degree felonies escalate as weight ranges and mandatory minimum terms escalate. For example, trafficking in flunitrazepam (4 grams or more, but less than 14 grams), which is punishable by a 3-year mandatory minimum term,<sup>31</sup> is ranked in Level 7 of the chart.<sup>32</sup> Trafficking in flunitrazepam (14 grams or more, but less than 28 grams), which is punishable by a 7-year mandatory minimum term,<sup>33</sup> is ranked in Level 8 of the chart.<sup>34</sup>

If it is the intent of the bill sponsor to follow a similar ranking formula, s. 921.0022, F.S., should be amended to provide for escalating rankings for the first degree felonies for trafficking in fentanyl, synthetic drugs, and LSD.

Section 893.135(1)(c)5., F.S., currently punishes capital importation of illegal drugs (such as hydrocodone and oxycodone). The bill does not punish capital importation of fentanyl, which may be an oversight.

## **VII. Related Issues:**

Section 2 of the bill punishes trafficking in fentanyl. As the bill is presently written, this trafficking offense would not cover fentanyl analogs or derivatives, which, as the Florida Department of Law Enforcement has noted, are as lethal as fentanyl and, like fentanyl, are found in combination with other drugs.<sup>35</sup>

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 893.13, 893.135, and 921.0022.

This bill reenacts ss. 112.0455, 373.6055, 397.451, 414.095, 435.07, 772.12, 775.084, 775.087, 782.04, 810.02, 812.014, 831.311, 893.03, 893.1351, 893.138, 903.133, 907.041, 921.0024, 921.187, 943.0585, and 943.059, F.S., for the purpose of incorporating amendments to ss. 893.13 and 893.135, F.S.

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<sup>31</sup> Section 893.135(1)(g)1.a., F.S.

<sup>32</sup> Section 921.0022(3)(g), F.S.

<sup>33</sup> Section 893.135(1)(g)1.b., F.S.

<sup>34</sup> Section 921.0022(3)(h), F.S.

<sup>35</sup> 2017 FDLE Legislative Bill Analysis (SB 150) (December 13, 2016), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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