

By the Committee on Criminal Justice; and Senator Burgess

591-02790-23

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.13, F.S.; providing criminal penalties; providing
4 for a mandatory minimum term of imprisonment if a
5 person sells, manufactures, or delivers or possesses
6 with intent to sell, manufacture, or deliver specified
7 substances or mixtures, and such substance or mixture
8 has at least one specified attribute; amending s.
9 893.135, F.S.; providing enhanced criminal penalties;
10 providing for a mandatory minimum term of imprisonment
11 if a person commits specified prohibited acts relating
12 to controlled substances, and such substance or
13 mixture has at least one specified attribute;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (i) is added to subsection (1) of
19 section 893.13, Florida Statutes, to read:

20 893.13 Prohibited acts; penalties.—

21 (1)

22 (i) Except as authorized by this chapter, a person commits
23 a felony of the first degree, punishable as provided in s.
24 775.082, s. 775.083, or s. 775.084, and must be sentenced to a
25 mandatory minimum term of imprisonment of 3 years, if:

26 1. The person sells, manufactures, or delivers, or
27 possesses with intent to sell, manufacture, or deliver, any of
28 the following:

29 a. Alfentanil, as described in s. 893.03(2)(b)1.;

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30 b. Carfentanil, as described in s. 893.03(2)(b)6.;

31 c. Fentanyl, as described in s. 893.03(2)(b)9.;

32 d. Sufentanil, as described in s. 893.03(2)(b)30.;

33 e. A fentanyl derivative, as described in s.

34 893.03(1)(a)62.;

35 f. A controlled substance analog, as described in s.

36 893.0356, of any substance described in sub-subparagraphs a.-e.;

37 or

38 g. A mixture containing any substance described in sub-
39 subparagraphs a.-f.; and

40 2. The substance or mixture listed in subparagraph 1. is in
41 a form that resembles, or is mixed, granulated, absorbed, spray-
42 dried, or aerosolized as or onto, coated on, in whole or in
43 part, or solubilized with or into, a product, when such product
44 or its packaging further has at least one of the following
45 attributes:

46 a. A bright color or coloring scheme;

47 b. Resembles the trade dress of a branded food product,
48 consumer food product, or logo food product;

49 c. Incorporates an actual or fake registered copyright,
50 service mark, or trademark;

51 d. Resembles candy, cereal, a gummy, a vitamin, or a
52 chewable product, such as a gum or gelatin-based product; or

53 e. Contains a cartoon character imprint.

54 Section 2. Paragraph (c) of subsection (1) of section
55 893.135, Florida Statutes, is amended to read:

56 893.135 Trafficking; mandatory sentences; suspension or
57 reduction of sentences; conspiracy to engage in trafficking.—

58 (1) Except as authorized in this chapter or in chapter 499

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59 and notwithstanding the provisions of s. 893.13:

60 (c)1. A person who knowingly sells, purchases,
61 manufactures, delivers, or brings into this state, or who is
62 knowingly in actual or constructive possession of, 4 grams or
63 more of any morphine, opium, hydromorphone, or any salt,
64 derivative, isomer, or salt of an isomer thereof, including
65 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
66 (3)(c)4., or 4 grams or more of any mixture containing any such
67 substance, but less than 30 kilograms of such substance or
68 mixture, commits a felony of the first degree, which felony
69 shall be known as "trafficking in illegal drugs," punishable as
70 provided in s. 775.082, s. 775.083, or s. 775.084. If the
71 quantity involved:

72 a. Is 4 grams or more, but less than 14 grams, such person
73 shall be sentenced to a mandatory minimum term of imprisonment
74 of 3 years and shall be ordered to pay a fine of \$50,000.

75 b. Is 14 grams or more, but less than 28 grams, such person
76 shall be sentenced to a mandatory minimum term of imprisonment
77 of 15 years and shall be ordered to pay a fine of \$100,000.

78 c. Is 28 grams or more, but less than 30 kilograms, such
79 person shall be sentenced to a mandatory minimum term of
80 imprisonment of 25 years and shall be ordered to pay a fine of
81 \$500,000.

82 2. A person who knowingly sells, purchases, manufactures,
83 delivers, or brings into this state, or who is knowingly in
84 actual or constructive possession of, 28 grams or more of
85 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
86 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
87 grams or more of any mixture containing any such substance,

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88 commits a felony of the first degree, which felony shall be
89 known as "trafficking in hydrocodone," punishable as provided in
90 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

91 a. Is 28 grams or more, but less than 50 grams, such person
92 shall be sentenced to a mandatory minimum term of imprisonment
93 of 3 years and shall be ordered to pay a fine of \$50,000.

94 b. Is 50 grams or more, but less than 100 grams, such
95 person shall be sentenced to a mandatory minimum term of
96 imprisonment of 7 years and shall be ordered to pay a fine of
97 \$100,000.

98 c. Is 100 grams or more, but less than 300 grams, such
99 person shall be sentenced to a mandatory minimum term of
100 imprisonment of 15 years and shall be ordered to pay a fine of
101 \$500,000.

102 d. Is 300 grams or more, but less than 30 kilograms, such
103 person shall be sentenced to a mandatory minimum term of
104 imprisonment of 25 years and shall be ordered to pay a fine of
105 \$750,000.

106 3. A person who knowingly sells, purchases, manufactures,
107 delivers, or brings into this state, or who is knowingly in
108 actual or constructive possession of, 7 grams or more of
109 oxycodone, as described in s. 893.03(2)(a)1.g., or any salt
110 thereof, or 7 grams or more of any mixture containing any such
111 substance, commits a felony of the first degree, which felony
112 shall be known as "trafficking in oxycodone," punishable as
113 provided in s. 775.082, s. 775.083, or s. 775.084. If the
114 quantity involved:

115 a. Is 7 grams or more, but less than 14 grams, such person
116 shall be sentenced to a mandatory minimum term of imprisonment

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117 of 3 years and shall be ordered to pay a fine of \$50,000.

118 b. Is 14 grams or more, but less than 25 grams, such person
119 shall be sentenced to a mandatory minimum term of imprisonment
120 of 7 years and shall be ordered to pay a fine of \$100,000.

121 c. Is 25 grams or more, but less than 100 grams, such
122 person shall be sentenced to a mandatory minimum term of
123 imprisonment of 15 years and shall be ordered to pay a fine of
124 \$500,000.

125 d. Is 100 grams or more, but less than 30 kilograms, such
126 person shall be sentenced to a mandatory minimum term of
127 imprisonment of 25 years and shall be ordered to pay a fine of
128 \$750,000.

129 4.a. A person who knowingly sells, purchases, manufactures,
130 delivers, or brings into this state, or who is knowingly in
131 actual or constructive possession of, 4 grams or more of:

132 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

133 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

134 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

135 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

136 (V) A fentanyl derivative, as described in s.

137 893.03(1)(a)62.;

138 (VI) A controlled substance analog, as described in s.
139 893.0356, of any substance described in sub-sub-subparagraphs

140 (I)-(V); or

141 (VII) A mixture containing any substance described in sub-
142 sub-subparagraphs (I)-(VI),

143
144 commits a felony of the first degree, which felony shall be
145 known as "trafficking in dangerous fentanyl or fentanyl

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146 analogues," punishable as provided in s. 775.082, s. 775.083, or
147 s. 775.084.

148 b. If the quantity involved under sub-subparagraph a.:

149 (I) Is 4 grams or more, but less than 14 grams, such person
150 shall be sentenced to a mandatory minimum term of imprisonment
151 of 7 years, and shall be ordered to pay a fine of \$50,000.

152 (II) Is 14 grams or more, but less than 28 grams, such
153 person shall be sentenced to a mandatory minimum term of
154 imprisonment of 20 years, and shall be ordered to pay a fine of
155 \$100,000.

156 (III) Is 28 grams or more, such person shall be sentenced
157 to a mandatory minimum term of imprisonment of 25 years, and
158 shall be ordered to pay a fine of \$500,000.

159 c. A person who violates sub-subparagraph a. shall be
160 sentenced to a mandatory minimum term of life imprisonment, and
161 shall be ordered to pay a fine of \$1 million if the substance or
162 mixture listed in sub-subparagraph a. is in a form that
163 resembles, or is mixed, granulated, absorbed, spray-dried, or
164 aerosolized as or onto, coated on, in whole or in part, or
165 solubilized with or into, a product, when such product or its
166 packaging further has at least one of the following attributes:

167 (I) A bright color or coloring scheme;

168 (II) Resembles the trade dress of a branded food product,
169 consumer food product, or logo food product;

170 (III) Incorporates an actual or fake registered copyright,
171 service mark, or trademark;

172 (IV) Resembles candy, cereal, a gummy, a vitamin, or a
173 chewable product, such as a gum or gelatin-based product; or

174 (V) Contains a cartoon character imprint.

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175 5. A person who knowingly sells, purchases, manufactures,
176 delivers, or brings into this state, or who is knowingly in
177 actual or constructive possession of, 30 kilograms or more of
178 any morphine, opium, oxycodone, hydrocodone, codeine,
179 hydromorphone, or any salt, derivative, isomer, or salt of an
180 isomer thereof, including heroin, as described in s.
181 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
182 more of any mixture containing any such substance, commits the
183 first degree felony of trafficking in illegal drugs. A person
184 who has been convicted of the first degree felony of trafficking
185 in illegal drugs under this subparagraph shall be punished by
186 life imprisonment and is ineligible for any form of
187 discretionary early release except pardon or executive clemency
188 or conditional medical release under s. 947.149. However, if the
189 court determines that, in addition to committing any act
190 specified in this paragraph:

191 a. The person intentionally killed an individual or
192 counseled, commanded, induced, procured, or caused the
193 intentional killing of an individual and such killing was the
194 result; or

195 b. The person's conduct in committing that act led to a
196 natural, though not inevitable, lethal result,
197
198 such person commits the capital felony of trafficking in illegal
199 drugs, punishable as provided in ss. 775.082 and 921.142. A
200 person sentenced for a capital felony under this paragraph shall
201 also be sentenced to pay the maximum fine provided under
202 subparagraph 1.

203 6. A person who knowingly brings into this state 60

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204 kilograms or more of any morphine, opium, oxycodone,
205 hydrocodone, codeine, hydromorphone, or any salt, derivative,
206 isomer, or salt of an isomer thereof, including heroin, as
207 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
208 60 kilograms or more of any mixture containing any such
209 substance, and who knows that the probable result of such
210 importation would be the death of a person, commits capital
211 importation of illegal drugs, a capital felony punishable as
212 provided in ss. 775.082 and 921.142. A person sentenced for a
213 capital felony under this paragraph shall also be sentenced to
214 pay the maximum fine provided under subparagraph 1.

215 Section 3. This act shall take effect October 1, 2023.