

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.)

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

BILL: CS/SB 1360

INTRODUCER: Criminal Justice Committee and Senator Leek

SUBJECT: Controlled Substances

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1360 amends s. 893.03, F.S., to except xylazine from the list of Schedule I controlled substances approved by the United States Food and Drug Administration (FDA) when used for veterinary purposes. Xylazine is a nonopioid tranquilizer methyl benzene compound frequently used in veterinary medicine as an emetic and sedative with analgesic and muscle relaxant properties.¹

The bill amends s. 893.13, F.S., to provide that it is a first degree felony,² with a mandatory minimum prison term of three years for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver xylazine.

Additionally, the bill amends s. 893.135, F.S., to create a first degree felony for trafficking in xylazine. A person may not knowingly sell, purchase, manufacture, deliver, or bring into this state, or knowingly in actual or constructive possession of, four grams or more of xylazine or any salt thereof, or four grams or more of any mixture containing any such substance. An offender convicted of such an offense must be sentenced to a mandatory minimum term of imprisonment and fine, the length and amount of which varies depending upon the amount of xylazine involved in the offense.

¹ 15 U.S.C. 278u.

² Sections 775.082, 775.083, or 775.084, F.S

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Currently, s. 893.03(1)(c)37., F.S., lists xylazine as a Schedule I drug. A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.³ Xylazine is also known as “tranq”⁴ and is a central nervous system depressant that can cause drowsiness, amnesia, slow breathing, low heart rate and blood pressure. Xylazine is FDA approved for use in animals as a sedative and pain reliever, it is not safe for use in humans and it is not known if the exposure can be reversed by naloxone.⁵ Naloxene is an FDA approved medicine used to quickly reverse an opioid overdose.⁶ Research has shown xylazine is often added to illicit opioids, including fentanyl, and people report using xylazine-containing fentanyl to lengthen its euphoric effects.⁷

Florida Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”⁸ of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United

³ Section 893.03(1), F.S.

⁴ National Library of Medicine, *Increasing presence of xylazine in heroin and/or fentanyl deaths, Philadelphia, Pennsylvania, 2010–2019*, Johnson J, Pizzicato L, Johnson C, Viner K., August 2021, available at <https://pubmed.ncbi.nlm.nih.gov/33536231/> (last visited March 10, 2025).

⁵ U.S. Food and Drug Administration, *FDA alerts health care professionals of risks to patients exposed to xylazine in illicit drugs, November 8, 2022*, available at <https://www.fda.gov/drugs/drug-safety-and-availability/fda-alerts-health-care-professionals-risks-patients-exposed-xylazine-illicit-drugs> (last visited March 10, 2025).

⁶ Drugs.com, *Naloxene*, <https://www.drugs.com/naloxone.html> (last visited March 10, 2025)

⁷ National Institute on Drug Abuse, *Xylazine Research Topics*, available at <https://nida.nih.gov/research-topics/xylazine> (last visited on March 11, 2025).

⁸ Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.

- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

Controlled Substance Analog

A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I; or
- Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

Selling a Controlled Substance or Possessing a Controlled Substance with Intent to Sell

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.⁹ The penalty assigned by s. 893.13, F.S., depends on the schedule applicable to the controlled substance that is being sold or possessed with intent to sell and, in some instances, the location in which the violation occurs. A person who unlawfully possesses specified controlled substances, such as xylazine, commits a third degree felony.^{10,11}

Section 893.13(1)(i), F.S., specifies that a person commits a first degree felony¹² and must be sentenced to a mandatory minimum term of imprisonment of three years if he or she sells, manufactures, or delivers, or possesses with the intent to sell, manufacture, or deliver:

- Alfentanil, carfentanil, fentanyl, sufentanil, a fentanyl derivative, a specified fentanyl analog, or a mixture containing any such substance; and
- The substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray-dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:
 - Resembles the trade dress of a branded food product, consumer food product, or logo food product;
 - Incorporates an actual or fake registered copyright, service mark, or trademark;

⁹ See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

¹⁰ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.

¹¹ Section 893.13(1)(a)2., F.S.

¹² A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. ss. 775.082, 775.083, or 775.084, F.S.

- Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin based product; or
- Contains a cartoon character imprint.

There is currently no offense for selling, or possessing with the intent to sell, xylazine with specified attributes.

Drug Trafficking

Section 893.135, F.S., punishes drug trafficking, which consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importing), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances, in a statutorily specified quantity. The statute only applies to a limited number of such controlled substances, including fentanyl and fentanyl-related substances. The controlled substance involved in the trafficking must meet a specified weight or quantity threshold. Most drug trafficking offenses are first degree felonies and are subject to a mandatory minimum term of imprisonment and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.

For example, trafficking in 4 grams or more of the following is a first degree felony:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative;¹³
- A controlled substance analog¹⁴ of any previously described substance or a fentanyl derivative; or
- A mixture containing any previously described substance or a fentanyl derivative or analog.¹⁵

If the quantity involved in the drug trafficking violation is:

- Four grams or more, but less than 14 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 7 years, and must be ordered to pay a fine of \$50,000;
- Fourteen grams or more, but less than 28 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 20 years, and must be ordered to pay a fine of \$100,000; or
- Twenty-eight grams or more, the person must be sentenced to a mandatory minimum term of imprisonment of 25 years, and must be ordered to pay a fine of \$500,000.¹⁶

There is currently no offense for trafficking in xylazine.

¹³ See s. 893.03(1)(a)62., F.S.

¹⁴ See s. 893.0356(2)(a), F.S.

¹⁵ Section 893.135(1)(c)4.a.(I)-(VII), F.S.

¹⁶ Section 893.135(1)(c)4.b.(I)-(III), F.S.

Mandatory Minimum Sentencing

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.¹⁷ These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

III. Effect of Proposed Changes:

The bill amends s. 893.03, F.S., to except xylazine from the list of Schedule I controlled substances approved by the United States Food and Drug Administration (FDA) for veterinary purposes.

The bill amends s. 893.13, F.S., to provide it is a first degree felony, with a mandatory minimum prison term of three years¹⁸ to for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver xylazine, its analog, or a mixture containing xylazine; and the substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray-dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:

- Resembles the trade dress of a branded food product, consumer food product, or logo food product;
- Incorporates an actual or fake registered copyright, service mark, or trademark;
- Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product; or
- Contains a cartoon character imprint.¹⁹

Additionally, the bill amends s. 893.135, F.S., to create a first degree felony for trafficking in xylazine. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of xylazine²⁰ or any salt thereof, or four grams or more of any mixture containing any such substance, commits "trafficking in xylazine." If the quantity involved is:

- Four grams or more, but less than 14 grams, such person must be sentenced to a mandatory minimum term of imprisonment of seven years and shall be ordered to pay a fine of \$50,000.
- Fourteen grams or more, but less than 28 grams, such person must be sentenced to a mandatory minimum term of imprisonment of 20 years and shall be ordered to pay a fine of \$100,000.

¹⁷ U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on March 10, 2025).

¹⁸ Sections 775.082, 775.083, or 775.084, F.S.

¹⁹ Sections 893.13(1)(i), F.S.

²⁰ Sections s. 893.03(1)(c), F.S.

- Twenty-eight grams or more, such person must be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$500,000.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 704 new commitments to prison for possession of a controlled substance and 315 new commitments for the sale, manufacture, or

delivery of a controlled substance. Since this data has multiple different drugs included, it is not known how many of these offenses involved xylazine. Therefore, the prison bed impact of this new language cannot be determined.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.03, 893.13, and 893.135

IX. Additional Information:

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

CS by Criminal Justice Committee on March 18, 2025:

The amendment removes the exception in the Schedule III controlled substances and maintains an exception for xylazine use for veterinary purposes in the list of Schedule I controlled substances.

- B. **Amendments:**

None.

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

²¹ Office of Economic and Demographic Research, *SB 1360 – Controlled Substances*, (on file with the Senate Committee on Criminal Justice).