

**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 432

INTRODUCER: Senator Yarborough

SUBJECT: Controlled Substances

DATE: January 9, 2026

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

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

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**I. Summary:**

SB 432 amends s. 893.03, F.S., to:

- Add 7- Hydroxymitragynine (“7-OH”), a form of kratom, to the list of Schedule I controlled substances.
- Except from the list of Schedule I controlled substances, xylazine animal drug product approved by the United States Food and Drug Administration (FDA) for veterinary purposes. The term “xylazine” means the nonopioid tranquilizer methyl benzene compound frequently used in veterinary medicine as an emetic and sedative with analgesic and muscle relaxant properties.<sup>1</sup>

The bill amends s. 893.13, F.S., to provide it is a first degree felony,<sup>2</sup> with a mandatory minimum prison term of 3 years for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver certain 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 be in actual or constructive possession of, 28 grams or more of xylazine or any salt thereof, or 28 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.

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.*

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<sup>1</sup> 15 U.S.C. s. 278u.

<sup>2</sup> Sections 775.082, 775.083, or 775.084, F.S

Section 1 of this bill takes effect July 1, 2026. Except as otherwise expressly provided in this act, this bill takes effect October 1, 2026.

## II. Present Situation:

### “7-OH” or 7-hydroxymitragynine (Kratom)

“7-OH” or 7-hydroxymitragynine, is a potent alkaloid that occurs naturally in trace amounts in kratom.<sup>3</sup> “7-OH” has become readily available at gas stations, vape shops and online, the chemical structure of “7-OH” is dissimilar to any currently scheduled substance in Schedule I under s. 893.03, F.S.<sup>4</sup> “7-OH” products are concentrated derivatives often falsely marketed as Kratom and their street names include 7-Hydroxy, 7-OHMG and ‘7.’<sup>5</sup>

The U.S. Poison Centers have received reports of serious health effects associated with the use of “7-OH.” From January 1-July 31, 2025 Poison Centers received 1,690 reports of exposure cases involving Kratom which passed the total from all of 2024.<sup>6</sup> 7-OH can cause overdose symptoms, like respiratory depression, which is when the effects of the opioid also suppress breathing and opioid-overdose reversal drugs like naloxone should work if someone is in distress.<sup>7</sup>

On August 12, 2025, Florida’s Attorney General issued Emergency Rule 2ER25-1, which was later superseded because the Florida Department of Agriculture and Consumer Services will have the laboratory capabilities to test 7-OH at a level above four hundred parts per million on a dry weight basis, which represent an amount of the 7-OH found in botanical kratom.<sup>8</sup>

On August 19, 2025, Florida’s Attorney General issued Emergency Rule 2ER25-2 superseding Emergency Rule 2ER25-1. Immediately placing 7-Hydroxymitragynine as a Schedule I substance to curtail its abuse by minors and adults.

Emergency Rule 2ER25-2 states:

Addition of 7-Hydroxymitragynine (methyl (E)-2[(2S,3S,7aS,12bS)-3-ethyl-7a-hydroxy-8-methoxy-2,3,4,6,7,12b-hexahydro-1H-indolo[2,3-a]quinolizin-2-yl]-3-methoxyprop-2-enoate) concentrated at a level above four hundred parts per million on a dry-weight basis to Schedule I, s. 893.03(1)(a), F.S.

<sup>3</sup> U.S. Food and Drug Administration, *Products Containing 7-OH Can Cause Serious Harm*, available at, <https://www.fda.gov/consumers/consumer-updates/products-containing-7-oh-can-cause-serious-harm> (Last visited January 5, 2026).

<sup>4</sup> Department of Legal Affairs 2ER25-2, Addition of 7-Hydroxymitragynine to Schedule I, available at <https://flrules.org/gateway/ChapterHome.asp?Chapter=2er25-2> (Last visited January 5, 2026).

<sup>5</sup> U.S. Food and Drug Administration, *Preventing The Next Wave of the Opioid Epidemic: What You Need to Know About 7-OH*, available at, <https://www.fda.gov/media/187900/download> (Last visited January 5, 2026).

<sup>6</sup> America’s Poison Centers, *Health Advisory: Serious Illnesses Associated with 7-OH Use*, available at, <https://poisoncenters.org/news-alerts/13531044> (Last visited January 5, 2026).

<sup>7</sup> USA Today Network-Florida, *13 times stronger than morphine: What is 7-OH, and why did Florida ban it?*, available at, <https://www.tallahassee.com/story/news/local/state/2025/08/21/its-13-times-stronger-than-morphine-why-florida-banned-7-oh/85678095007/> (Last visited January 5, 2026).

<sup>8</sup> Department of Legal Affairs 2ER25-1, Addition of 7-Hydroxymitragynine to Schedule I, available at <https://flrules.org/gateway/RuleNo.asp?title=Emergency%20Rule%20for%20Year%202025&ID=2ER25-1> (Last visited January 5, 2026).

These circumstances presented an immediate and imminent hazard to public health, safety, and welfare which requires emergency action. In addition, the Attorney General has found that the above-mentioned compound meets the statutory criteria for placement as a controlled substance in Schedule I, s. 893.03(1)(a), F.S. The emergency rule ordered the temporary scheduling of 7-hydroxymitragynine until the completion of the 2026 legislative session.<sup>9</sup>

On December 10, 2025, Florida's Attorney General issued Emergency Rule 2ER25-3. Emergency Rule 2ER25-3 superseded Emergency Rule 2ER25-2 to update the findings of an imminent hazard to the public safety with respect to 7-OH.<sup>10</sup> Emergency Rule 2ER25-3 does not change the compound or Scheduling that was issued in Emergency Rule 2ER25-2.

Emergency Rule 2ER25-3 expanded the findings to include the need “to curtail [7-OH] abuse by Florida's children, young adults, and others.”<sup>11</sup>

Under s. 893.035(7)(a), F.S., the Attorney General is granted statutory authority to issue emergency rules to temporarily classify new substances that pose a potential threat due to abuse. This delegation allows for swift administrative action to control emerging designer drugs before legislative review. However, as outlined in s. 893.035(9), F.S., any emergency rule adopted under this authority automatically expires on the following June 30 unless the Legislature enacts the rule's provisions as a formal amendment to ch. 893, F.S. This ensures that emergency scheduling remains a temporary measure unless ratified through legislative process.

In 2023, the Legislature enacted the Florida Kratom Consumer Protection Act,<sup>12</sup> which made it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person under 21 years of age. The Florida Department of Agriculture and Consumer Services (FDACS) adopted rules to implement the act.<sup>13</sup>

## **Xylazine**

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.<sup>14</sup> Xylazine is also known as “tranq”<sup>15</sup> and is a central nervous system depressant that can cause drowsiness, amnesia, slow breathing, low heart rate and blood pressure.

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<sup>9</sup> Department of Legal Affairs 2ER25-2, Addition of 7-Hydroxymitragynine to Schedule I, available at <https://flrules.org/gateway/ChapterHome.asp?Chapter=2er25-2> (Last visited January 5, 2026).

<sup>10</sup> Department of Legal Affairs 2ER25-3, Addition of 7-Hydroxymitragynine to Schedule I, available at <https://flrules.org/gateway/ruleNo.asp?id=2ER25-3> (Last visited January 5, 2026).

<sup>11</sup> Department of Legal Affairs 2ER25-3, Addition of 7-Hydroxymitragynine to Schedule I, available at <https://flrules.org/gateway/ruleNo.asp?id=2ER25-3> (Last visited January 5, 2026).

<sup>12</sup> Section 500.92, F.S.

<sup>13</sup> Florida Administrative Code R. 5K-4.030.

<sup>14</sup> Section 893.03(1), F.S.

<sup>15</sup> 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 January 5, 2026).

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.<sup>16</sup> Naloxene is an FDA approved medicine used to quickly reverse an opioid overdose.<sup>17</sup> Research has shown xylazine is often added to illicit opioids, including fentanyl, and people report using xylazine-containing fentanyl to lengthen its euphoric effects.<sup>18</sup>

### 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”<sup>19</sup> 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 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

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<sup>16</sup> 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 January 5, 2026).

<sup>17</sup> Drugs.com, *Naloxene*, <https://www.drugs.com/naloxone.html> (last visited January 5, 2026)

<sup>18</sup> National Institute on Drug Abuse, *Xylazine Research Topics*, available at <https://nida.nih.gov/research-topics/xylazine> (last visited on December 11, 2025).

<sup>19</sup> 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.

- 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.

### **Controlled Substance Offenses Under ss. 893.13 and 893.135, F.S.**

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.<sup>20</sup> The penalty for violating s. 893.13, F.S., generally depends on the act committed, the substance and quantity of the substance involved, and the location in which the violation occurred.

Section 893.13(1), F.S., prohibits a person from selling, manufacturing,<sup>21</sup> or delivering,<sup>22</sup> or possessing with the intent to sell, manufacture, or deliver a controlled substance. The penalty for selling a controlled substance varies depending on several factors, including the type and amount of the substance sold, and the location where the sale takes place. Generally, sale of a controlled substance is punishable as either a second degree felony<sup>23</sup> or third degree felony.<sup>24</sup>

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), 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, and the controlled substances involved in the trafficking must meet a specified weight or quantity threshold.

Generally, a drug trafficking offense is punishable as a first degree felony.<sup>25,26</sup> Section 893.135, F.S., outlines threshold amounts of the applicable controlled substance for each trafficking

<sup>20</sup> See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

<sup>21</sup> “Manufacture” means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by:

- A practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice.
- A practitioner, or his or her authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale. Section 893.02(15)(a), F.S.

<sup>22</sup> “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

<sup>23</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>24</sup> Section 893.13(1), F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>25</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>26</sup> Trafficking in certain controlled substances can be a capital offense under specified circumstances. See, e.g., s. 893.135(1)(h)2., F.S. (Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine . . . who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony).

offense. All drug trafficking offenses are subject to mandatory minimum sentences and heightened fines, which are determined by the threshold amounts.

### III. Effect of Proposed Changes:

The bill amends s. 893.03, F.S., to add 7-Hydroxymitragynine (“7-OH”) concentrated at a level above 400 parts per million on a dry weight basis to the list of Schedule I controlled substances.

The bill amends s. 893.03, F.S., to except from the list of Schedule I controlled substances, xylazine animal drug product 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,<sup>27</sup> with a mandatory minimum prison term of 3 years for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver xylazine products that resemble candy or other food products or contains cartoon character imprints or trade or logos.

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 be in actual or constructive possession of, 28 grams or more of xylazine or any salt thereof, or 28 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. If the quantity involved is:

- Twenty-eight grams or more, but less than 100 grams, such person must be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$100,000.
- One-hundred grams or more, but less than 200 grams, such person must be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000.
- Two-hundred 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.

### 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.

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<sup>27</sup> Sections 775.082, 775.083, or 775.084, F.S.

## 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 DOC, in FY 24-25, there were 1,159 new commitments to prison for the possession, sale, manufacture, or delivery, or trafficking of various drugs. It is not known how many additional offenders would be incarcerated with the addition of 7-Hydroxymitragynine.
- Xylazine is currently included with various other drugs under the sale, manufacturing, delivery, and trafficking statutes. The new language for Xylazine presents language that could both increase the prison population, by adding it to the Level 7, 1st degree 3 year mandatory felony with fentanyl and its derivatives, but also reduce it by not applying a mandatory minimum sentence for trafficking until it reaches 28 grams. Even though it is not known how many new commitments Xylazine represents, there were 70 new commitments for trafficking below the new threshold, and 362 new commitments for sale, manufacture, and delivery. The higher number of new commitments make it likely that more offenders involved with Xylazine will be incarcerated, and with the addition of 7-Hydroxymitragynine, the prison population is expected to be pushed in a positive direction, though the number of new inmates cannot be quantified.<sup>28</sup>

<sup>28</sup> Office of Economic and Demographic Research, *SB 432- Controlled Substances*, (on file with the Senate Committee on Criminal Justice).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In their agency bill analysis, the FDLE noted that:

- FDLE is capable of identifying 7-hydroxymitragynine (7-OH) but is unable to specify between three possible isomers due to equipment limitations.
- The Department of Agriculture and Consumer Services (FDACS) developed a targeted, quantitative screen for 7-hydroxymitragynine.
- When the 7-OH group is identified at a FDLE forensic laboratory, the report will recommend that the substance is sent to the FDACS for quantitative analysis.<sup>29</sup>

**VIII. Statutes Affected:**

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

**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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<sup>29</sup> Florida Department of Law Enforcement, *2026 Agency Analysis SB 432-Controlled Substances*, (on file with the Senate Committee on Criminal Justice).