

By the Committee on Health Care Standards & Regulatory Reform and Representative Kelly

1 A bill to be entitled
2 An act relating to pharmacy; amending s.
3 465.003, F.S.; revising the definitions of
4 "pharmacy" and "practice of the profession of
5 pharmacy"; amending s. 465.0125, F.S.;
6 providing responsibilities of consultant
7 pharmacists and doctors of pharmacy; providing
8 for rules; amending s. 465.014, F.S.; revising
9 tasks and duties delegated to a pharmacy
10 technician; amending s. 465.0156, F.S.;
11 revising information required for registration
12 of nonresident pharmacies; amending s. 465.016,
13 F.S.; revising disciplinary actions; increasing
14 the administrative fine; providing penalties;
15 amending s. 465.0196, F.S., relating to special
16 pharmacy permits; correcting a cross reference;
17 amending s. 465.035, F.S.; allowing the
18 dispensing of controlled substances based on
19 electronic facsimiles of the original
20 prescriptions; amending s. 465.186, F.S.;
21 providing for inclusion of certain products and
22 over-the-counter proprietary drugs in the
23 formulary of authorized medicinal drug products
24 and dispensing procedures; amending s. 893.03,
25 F.S.; adding butorphanol tartrate as a Schedule
26 IV controlled substance; reenacting ss.
27 316.193(5), 327.35(5), 440.102(11)(b),
28 458.326(3), 817.563(1), 831.31(1)(a) and (2),
29 856.015(1)(d), 893.02(4), 893.08(1)(b),
30 893.13(1)(a), (c), and (d), (2)(a), (4)(b), and
31 (5)(b), F.S., relating to driving under the

1 influence, boating under the influence,
2 drug-free workplace program requirements,
3 authorized treatment of intractable pain, sales
4 of substances in lieu of controlled substances,
5 counterfeit controlled substances, open house
6 parties, definitions applicable to regulation
7 of controlled substance, exceptions to required
8 prescription for distribution at retail, and
9 prohibited acts relating to controlled
10 substances, respectively, to incorporate the
11 amendment to s. 893.03, F.S., in references
12 thereto; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsections (10) and (12) of section
17 465.003, Florida Statutes, are amended to read:

18 465.003 Definitions.--As used in this chapter, the
19 term:

20 (10)(a) "Pharmacy" includes a community pharmacy, an
21 institutional pharmacy, a nuclear pharmacy, and a special
22 pharmacy.

23 1.(a) The term "community pharmacy" includes every
24 location where medicinal drugs are compounded, dispensed,
25 stored, or sold or where prescriptions are filled or dispensed
26 on an outpatient basis.

27 2.(b) The term "institutional pharmacy" includes every
28 location in a hospital, clinic, nursing home, dispensary,
29 sanitarium, extended care facility, or other facility,
30 hereinafter referred to as "health care institutions," where
31 medicinal drugs are compounded, dispensed, stored, or sold.

1 ~~3.(c)~~ The term "nuclear pharmacy" includes every
2 location where radioactive drugs and chemicals within the
3 classification of medicinal drugs are compounded, dispensed,
4 stored, or sold. The term "nuclear pharmacy" does not include
5 hospitals licensed under chapter 395 or the nuclear medicine
6 facilities of such hospitals.

7 ~~4.(d)~~ The term "special pharmacy" includes every
8 location where medicinal drugs are compounded, dispensed,
9 stored, or sold if such locations are not otherwise defined in
10 this subsection.

11 (b) The pharmacy department of any permittee shall be
12 considered closed whenever a Florida licensed pharmacist is
13 not present and on duty. The term "not present and on duty"
14 shall not be construed to prevent a pharmacist from exiting
15 the prescription department for the purposes of consulting or
16 responding to inquiries or providing assistance to patients or
17 customers, attending to personal hygiene needs, or performing
18 any other function for which the pharmacist is responsible,
19 provided that such activities are conducted in a manner
20 consistent with the pharmacist's responsibility to provide
21 pharmacy services.

22 (12) "Practice of the profession of pharmacy" includes
23 compounding, dispensing, and consulting concerning contents,
24 therapeutic values, and uses of any medicinal drug and
25 ~~consulting~~ concerning therapeutic values and interactions of
26 patent or proprietary preparations, whether pursuant to
27 prescriptions or in the absence and entirely independent of
28 such prescriptions or orders, and other related cognitive
29 services. The phrase also includes any other act, service,
30 operation, research, or transaction incidental to, or forming
31 a part of, any of the foregoing acts, requiring, involving, or

1 employing the science or art of any branch of the
2 pharmaceutical profession, study, or training, and shall
3 expressly permit a pharmacist to transmit information from
4 persons authorized to prescribe medicinal drugs to their
5 patients. In addition, the phrase also includes the
6 compounding of drugs and devices for the purpose of sale or
7 transfer to practitioners authorized pursuant to chapter 458,
8 chapter 459, chapter 461, chapter 466, or chapter 474 to
9 prescribe and administer medicinal drugs for the purpose of
10 administering such drugs to their patients. However, this
11 activity may not involve more than 5 percent of the total
12 annual dollar value of all medicinal drugs sold by the
13 compounding pharmacy in the year during which the sale or
14 transfer occurs.

15 Section 2. Section 465.0125, Florida Statutes, is
16 amended to read:

17 465.0125 Consultant pharmacist license; application,
18 renewal, fees; responsibilities; rules.--

19 (1) The department shall issue or renew a consultant
20 pharmacist license upon receipt of an initial or renewal
21 application which conforms to the requirements for consultant
22 pharmacist initial licensure or renewal as promulgated by the
23 board by rule and a fee set by the board not to exceed \$250.
24 The consultant pharmacist shall be responsible for maintaining
25 all drug records required by law and for establishing drug
26 handling procedures for the safe handling and storage of
27 drugs. The consultant pharmacist may also be responsible for
28 ordering and evaluating any laboratory or clinical testing
29 when, in the judgment of the consultant pharmacist, such
30 activity is necessary for the proper performance of the
31 consultant pharmacist's responsibilities. Such laboratory or

1 clinical testing may be ordered only with regard to patients
2 residing in a nursing home facility, and then only when
3 authorized by the medical director of the nursing home
4 facility. The consultant pharmacist must have completed such
5 additional training and demonstrate such additional
6 qualifications in the practice of institutional pharmacy as
7 shall be required by the board of ~~Pharmacy~~ in addition to
8 licensure as a registered pharmacist. ~~The board shall~~
9 ~~promulgate rules necessary to implement and administer this~~
10 ~~section.~~

11 (2) Notwithstanding the provisions of subsection (1),
12 a consultant pharmacist or a doctor of pharmacy licensed in
13 this state may also be responsible for ordering and evaluating
14 any laboratory or clinical testing for persons under the care
15 of a licensed home health agency when, in the judgment of the
16 consultant pharmacist or doctor of pharmacy, such activity is
17 necessary for the proper performance of his or her
18 responsibilities and only when authorized by the person's
19 physician licensed under chapter 458, chapter 459, chapter
20 461, or chapter 466. In order for the consultant pharmacist
21 or doctor of pharmacy to qualify and accept this authority, he
22 or she must receive 3 hours of continuing education relating
23 to laboratory and clinical testing as established by the
24 board.

25 (3) The board shall promulgate rules necessary to
26 implement and administer this section.

27 Section 3. Section 465.014, Florida Statutes, is
28 amended to read:

29 465.014 Pharmacy technician.--No person other than a
30 licensed pharmacist or pharmacy intern may engage in the
31 practice of the profession of pharmacy, except that a licensed

1 pharmacist may delegate to nonlicensed pharmacy technicians
2 those duties, tasks, and functions which do not fall within
3 the purview of s. 465.003(12). All such delegated acts shall
4 be performed under the direct supervision of a licensed
5 pharmacist who shall be responsible for all such acts
6 performed by persons under his or her supervision. A pharmacy
7 technician, under the supervision of a pharmacist, may
8 initiate or receive communications with a practitioner or his
9 or her agent, on behalf of a patient, regarding refill
10 authorization requests. No licensed pharmacist shall supervise
11 more than one pharmacy technician unless otherwise permitted
12 by the guidelines adopted by the board. The board shall
13 establish guidelines to be followed by licensees or permittees
14 in determining the circumstances under which a licensed
15 pharmacist may supervise more than one but not more than two
16 pharmacy technicians.

17 Section 4. Subsection (1) of section 465.0156, Florida
18 Statutes, is amended to read:

19 465.0156 Registration of nonresident pharmacies.--

20 (1) Any pharmacy which is located outside this state
21 and which ships, mails, or delivers, in any manner, a
22 dispensed medicinal drug into this state shall be considered a
23 nonresident pharmacy, shall be registered with the board,
24 shall provide pharmacy services at a high level of protection
25 and competence, and shall disclose to the board the following
26 specific information:

27 (a) That it maintains at all times a valid, unexpired
28 license, permit, or registration to operate the pharmacy in
29 compliance with the laws of the state in which the dispensing
30 facility is located and from which the medicinal drugs shall
31 be dispensed;

1 (b) The location, names, and titles of all principal
2 corporate officers and the pharmacist who serves as the
3 prescription department manager for ~~all pharmacists who are~~
4 dispensing medicinal drugs to residents of this state. This
5 disclosure shall be made on a biennial ~~an annual~~ basis with
6 renewal of registration and within 10 ~~30~~ days after any change
7 of ~~office~~ location, corporate officer, or pharmacist serving
8 as the prescription department manager for dispensing
9 medicinal drugs to residents of this state;

10 (c) That it complies with all lawful directions and
11 requests for information from the regulatory or licensing
12 agency of all states in which it is licensed as well as with
13 all requests for information made by the board pursuant to
14 this section. It shall respond directly to all communications
15 from the board concerning emergency circumstances arising from
16 errors in the dispensing of medicinal drugs to the residents
17 of this state;

18 (d) That it maintains its records of medicinal drugs
19 dispensed to patients in this state so that the records are
20 readily retrievable from the other business records of the
21 pharmacy and from the records of other medicinal drugs
22 dispensed; and

23 (e) That during its regular hours of operation but not
24 less than 6 days per week, for a minimum of 40 hours per week,
25 a toll-free telephone service shall be provided to facilitate
26 communication between patients in this state and a pharmacist
27 at the pharmacy who has access to the patient's records. This
28 toll-free number must be disclosed on the label affixed to
29 each container of dispensed medicinal drugs.

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1 Section 5. Paragraph (o) of subsection (1) and
2 paragraphs (c) and (e) of subsection (2) of section 465.016,
3 Florida Statutes, are amended to read:

4 465.016 Disciplinary actions.--

5 (1) The following acts shall be grounds for
6 disciplinary action set forth in this section:

7 (o) Failing to report to the department ~~Division of~~
8 ~~Medical Quality Assurance~~ any licensee ~~physician licensed~~
9 under chapter 458 or ~~osteopathic physician licensed under~~
10 chapter 459 who the pharmacist knows has violated the grounds
11 for disciplinary action set out in the law under which that
12 person ~~physician or osteopathic physician~~ is licensed and who
13 provides health care services in a facility licensed under
14 chapter 395, or a health maintenance organization certificated
15 under part I of chapter 641, in which the pharmacist also
16 provides services.

17 (2) When the board finds any person guilty of any of
18 the grounds set forth in subsection (1), it may enter an order
19 imposing one or more of the following penalties:

20 (c) Imposition of an administrative fine not to exceed
21 <U>\$5,000~~\$1,000~~ for each count or separate offense.

22 (e) Placement of the pharmacist on probation for a
23 period of time and subject to such conditions as the board may
24 specify, including, but not limited to, requiring the
25 pharmacist to submit to treatment, to attend continuing
26 education courses, to submit to reexamination, or to work
27 under the supervision of another pharmacist.

28 Section 6. Section 465.0196, Florida Statutes, is
29 amended to read:

30 465.0196 Special pharmacy permits.--Any person
31 desiring a permit to operate a pharmacy which does not fall

1 within the definitions set forth in s. 465.003(10)(a)1.,
2 2.(b), and 3.(c) shall apply to the department for a special
3 pharmacy permit. If the board certifies that the application
4 complies with the applicable laws and rules of the board
5 governing the practice of the profession of pharmacy, the
6 department shall issue the permit. No permit shall be issued
7 unless a licensed pharmacist is designated to undertake the
8 professional supervision of the compounding and dispensing of
9 all drugs dispensed by the pharmacy. The licensed pharmacist
10 shall be responsible for maintaining all drug records and for
11 providing for the security of the area in the facility in
12 which the compounding, storing, and dispensing of medicinal
13 drugs occurs. The permittee shall notify the department
14 within 10 days of any change of the licensed pharmacist
15 responsible for such duties.

16 Section 7. Section 465.035, Florida Statutes, is
17 amended to read:

18 465.035 Dispensing of medicinal ~~medical~~ drugs pursuant
19 to facsimile of prescription.--

20 (1) Notwithstanding any other provision of this
21 chapter, it is lawful for a pharmacy to dispense medicinal
22 drugs, including controlled substances as provided in this
23 section, based on reception of an electronic facsimile of the
24 original prescription if all of the following conditions are
25 met:

26 (a) In the course of the transaction the pharmacy
27 complies with laws and administrative rules relating to
28 pharmacies and pharmacists.

29 (b) Except in the case of the transmission of a
30 prescription by a person authorized by law to prescribe
31 medicinal drugs:

1 1. The facsimile system making the transmission
2 provides the pharmacy receiving the transmission with audio
3 communication via telephonic, electronic, or similar means
4 with the person presenting the prescription.

5 2. At the time of the delivery of the medicinal drugs,
6 the pharmacy has in its possession the original prescription
7 for the medicinal drug involved.

8 3. The recipient of the prescription shall sign a log
9 and shall indicate the name and address of both the recipient
10 and the patient for whom the medicinal drug was prescribed.

11 ~~(2) This section does not apply to the dispensing of~~
12 Controlled substances listed in Schedule II as defined in s.
13 893.03(2) may be dispensed as provided in 21 C.F.R. s.
14 1306.11.

15 Section 8. Subsection (1) of section 465.186, Florida
16 Statutes, is amended to read:

17 465.186 Pharmacist's order for medicinal drugs;
18 dispensing procedure; development of formulary.--

19 (1) There is hereby created a committee composed of
20 two members of the Board of Medicine licensed under chapter
21 458 chosen by said board, one member of the Board of
22 Osteopathic Medicine licensed under chapter 459 chosen by said
23 board, three members of the Board of Pharmacy licensed under
24 this chapter ~~and~~ chosen by said board, and one ~~additional~~
25 person with a background in health care or pharmacology chosen
26 by the committee. The committee shall establish a formulary
27 of medicinal drug products and dispensing procedures which
28 shall be used by a pharmacist when ordering and dispensing
29 such drug products to the public. Dispensing procedures may
30 include matters related to reception of patient, description
31 of his condition, patient interview, patient physician

1 referral, product selection, and dispensing and use
2 limitations. In developing the formulary of medicinal drug
3 products, the committee may include products falling within
4 the following categories:

5 (a) Any medicinal drug of single or multiple active
6 ingredients in any strengths when such active ingredients have
7 been approved individually or in combination for
8 over-the-counter sale by the United States Food and Drug
9 Administration.

10 (b) Any medicinal drug recommended by the United
11 States Food and Drug Administration Advisory Panel for
12 transfer to over-the-counter status pending approval by the
13 United States Food and Drug Administration.

14 (c) Any medicinal drug containing any antihistamine or
15 decongestant as a single active ingredient or in combination.

16 (d) Any medicinal drug containing fluoride in any
17 strength.

18 (e) Any medicinal drug containing lindane in any
19 strength.

20 (f) Any over-the-counter proprietary drug under
21 federal law that has been approved for reimbursement by the
22 Florida Medicaid Program.

23 (g) Any topical anti-infectives.

24 (h) Any anti-emetics.

25 (i) Any antibiotic eye drops or antibiotic ear drops.

26 (j) Any urinary tract anti-infectives.

27

28 Except as provided in paragraph (f)~~However~~, any drug which is
29 sold as an over-the-counter proprietary drug under federal law
30 shall not be included in the formulary or otherwise affected
31 by this section.

1 Section 9. Paragraph (iii) is added to subsection (4)
2 of section 893.03, Florida Statutes, 1996 Supplement, to read:
3 893.03 Standards and schedules.--The substances
4 enumerated in this section are controlled by this chapter.
5 The controlled substances listed or to be listed in Schedules
6 I, II, III, IV, and V are included by whatever official,
7 common, usual, chemical, or trade name designated. The
8 provisions of this section shall not be construed to include
9 within any of the schedules contained in this section any
10 excluded drugs listed within the purview of 21 C.F.R. s.
11 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
12 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
13 styled "Exempted Prescription Products"; or 21 C.F.R. s.
14 1308.34, styled "Exempt Anabolic Steroid Products."

15 (4) SCHEDULE IV.--A substance in Schedule IV has a low
16 potential for abuse relative to the substances in Schedule III
17 and has a currently accepted medical use in treatment in the
18 United States, and abuse of the substance may lead to limited
19 physical or psychological dependence relative to the
20 substances in Schedule III. Unless specifically excepted or
21 unless listed in another schedule, any material, compound,
22 mixture, or preparation which contains any quantity of the
23 following substances, including its salts, isomers, and salts
24 of isomers whenever the existence of such salts, isomers, and
25 salts of isomers is possible within the specific chemical
26 designation, are controlled in Schedule IV:

27 (iii) Butorphanol tartrate.

28 Section 10. For the purpose of incorporating the
29 amendment to section 893.03, Florida Statutes, 1996
30 Supplement, in references thereto, the sections or
31

1 subdivisions of Florida Statutes set forth below are reenacted
2 to read:

3 316.193 Driving under the influence; penalties.--
4 (5) The court shall place any offender convicted of
5 violating this section on monthly reporting probation and
6 shall require attendance at a substance abuse course licensed
7 by the department; and the agency conducting the course may
8 refer the offender to an authorized service provider for
9 substance abuse evaluation and treatment, in addition to any
10 sentence or fine imposed under this section. The offender
11 shall assume reasonable costs for such education, evaluation,
12 and treatment, with completion of all such education,
13 evaluation, and treatment being a condition of reporting
14 probation. Treatment resulting from a psychosocial evaluation
15 may not be waived without a supporting psychosocial evaluation
16 conducted by an agency appointed by the court and with access
17 to the original evaluation. The offender shall bear the cost
18 of this procedure. The term "substance abuse" means the abuse
19 of alcohol or any substance named or described in Schedules I
20 through V of s. 893.03. If an offender referred to treatment
21 under this subsection fails to report for or complete such
22 treatment or fails to complete the substance abuse education
23 course, the DUI program shall notify the court and the
24 department of the failure. Upon receipt of the notice, the
25 department shall cancel the offender's driving privilege. The
26 department shall reinstate the driving privilege when the
27 offender completes the substance abuse education course or
28 enters treatment required under this subsection. The
29 organization that conducts the substance abuse education and
30 evaluation may not provide required substance abuse treatment
31 unless a waiver has been granted to that organization by the

1 department. A waiver may be granted only if the department
2 determines, in accordance with its rules, that the service
3 provider that conducts the substance abuse education and
4 evaluation is the most appropriate service provider and is
5 licensed under chapter 397 or is exempt from such licensure.
6 All DUI treatment programs providing treatment services on
7 January 1, 1994, shall be allowed to continue to provide such
8 services until the department determines whether a waiver
9 should be granted. A statistical referral report shall be
10 submitted quarterly to the department by each organization
11 authorized to provide services under this section.

12 327.35 Boating under the influence; penalties.--

13 (5) In addition to any sentence or fine, the court
14 shall place any offender convicted of violating this section
15 on monthly reporting probation and shall require attendance at
16 a substance abuse course specified by the court; and the
17 agency conducting the course may refer the offender to an
18 authorized service provider for substance abuse evaluation and
19 treatment, in addition to any sentence or fine imposed under
20 this section. The offender shall assume reasonable costs for
21 such education, evaluation, and treatment, with completion of
22 all such education, evaluation, and treatment being a
23 condition of reporting probation. Treatment resulting from a
24 psychosocial evaluation may not be waived without a supporting
25 psychosocial evaluation conducted by an agency appointed by
26 the court and with access to the original evaluation. The
27 offender shall bear the cost of this procedure. The term
28 "substance abuse" means the abuse of alcohol or any substance
29 named or described in Schedules I through V of s. 893.03.

30 440.102 Drug-free workplace program requirements.--The
31 following provisions apply to a drug-free workplace program

1 implemented pursuant to law or to rules adopted by the Agency
2 for Health Care Administration:

3 (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR
4 SPECIAL-RISK POSITIONS.--

5 (b) An employee who is employed by a public employer
6 in a special-risk position may be discharged or disciplined by
7 a public employer for the first positive confirmed test result
8 if the drug confirmed is an illicit drug under s. 893.03. A
9 special-risk employee who is participating in an employee
10 assistance program or drug rehabilitation program may not be
11 allowed to continue to work in any special-risk or
12 safety-sensitive position of the public employer, but may be
13 assigned to a position other than a safety-sensitive position
14 or placed on leave while the employee is participating in the
15 program. However, the employee shall be permitted to use any
16 accumulated annual leave credits before leave may be ordered
17 without pay.

18 458.326 Intractable pain; authorized treatment.--

19 (3) Notwithstanding any other provision of law, a
20 physician may prescribe or administer any controlled substance
21 under Schedules II-V, as provided for in s. 893.03, to a
22 person for the treatment of intractable pain, provided the
23 physician does so in accordance with that level of care,
24 skill, and treatment recognized by a reasonably prudent
25 physician under similar conditions and circumstances.

26 817.563 Controlled substance named or described in s.
27 893.03; sale of substance in lieu thereof.--It is unlawful for
28 any person to agree, consent, or in any manner offer to
29 unlawfully sell to any person a controlled substance named or
30 described in s. 893.03 and then sell to such person any other

31

1 substance in lieu of such controlled substance. Any person who
2 violates this section with respect to:

3 (1) A controlled substance named or described in s.
4 893.03(1), (2), (3), or (4) is guilty of a felony of the third
5 degree, punishable as provided in s. 775.082, s. 775.083, or
6 s. 775.084.

7 831.31 Counterfeit controlled substance; sale,
8 manufacture, delivery, or possession with intent to sell,
9 manufacture, or deliver.--

10 (1) It is unlawful for any person to sell,
11 manufacture, or deliver, or to possess with intent to sell,
12 manufacture, or deliver, a counterfeit controlled substance.
13 Any person who violates this subsection with respect to:

14 (a) A controlled substance named or described in s.
15 893.03(1), (2), (3), or (4) is guilty of a felony of the third
16 degree, punishable as provided in s. 775.082, s. 775.083, or
17 s. 775.084.

18 (2) For purposes of this section, "counterfeit
19 controlled substance" means:

20 (a) A controlled substance named or described in s.
21 893.03 which, or the container or labeling of which, without
22 authorization bears the trademark, trade name, or other
23 identifying mark, imprint, or number, or any likeness thereof,
24 of a manufacturer other than the person who in fact
25 manufactured the controlled substance; or

26 (b) Any substance which is falsely identified as a
27 controlled substance named or described in s. 893.03.

28 856.015 Open house parties.--

29 (1) Definitions.--As used in this section:

30 (d) "Drug" means a controlled substance, as that term
31 is defined in ss. 893.02(4) and 893.03.

1 893.02 Definitions.--The following words and phrases
2 as used in this chapter shall have the following meanings,
3 unless the context otherwise requires:

4 (4) "Controlled substance" means any substance named
5 or described in Schedules I through V of s. 893.03. Laws
6 controlling the manufacture, distribution, preparation,
7 dispensing, or administration of such substances are drug
8 abuse laws.

9 893.08 Exceptions.--

10 (1) The following may be distributed at retail without
11 a prescription, but only by a registered pharmacist:

12 (b) Any compound, mixture, or preparation containing
13 any depressant or stimulant substance described in s.
14 893.03(2)(a) or (c) except any amphetamine drug or
15 sympathomimetic amine drug or compound designated as a
16 Schedule II controlled substance pursuant to this chapter; in
17 s. 893.03(3)(a); or in Schedule IV, if:

18 1. The compound, mixture, or preparation contains one
19 or more active medicinal ingredients not having depressant or
20 stimulant effect on the central nervous system, and

21 2. Such ingredients are included therein in such
22 combinations, quantity, proportion, or concentration as to
23 vitiate the potential for abuse of the controlled substances
24 which do have a depressant or stimulant effect on the central
25 nervous system.

26 893.13 Prohibited acts; penalties.--

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

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

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

9 3. A controlled substance named or described in s.
10 893.03(5) commits a misdemeanor of the first degree,
11 punishable as provided in s. 775.082 or s. 775.083.

12 (c) Except as authorized by this chapter, it is
13 unlawful for any person to sell, manufacture, or deliver, or
14 possess with intent to sell, manufacture, or deliver a
15 controlled substance in, on, or within 1,000 feet of the real
16 property comprising a public or private elementary, middle, or
17 secondary school between the hours of 6 a.m. and 12 a.m. Any
18 person who violates this paragraph with respect to:

19 1. A controlled substance named or described in s.
20 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
21 felony of the first degree, punishable as provided in s.
22 775.082, s. 775.083, or s. 775.084 and must be sentenced to a
23 minimum term of imprisonment of 3 calendar years.

24 2. A controlled substance named or described in s.
25 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
26 second degree, punishable as provided in s. 775.082, s.
27 775.083, or s. 775.084.

28 3. Any other controlled substance, except as lawfully
29 sold, manufactured, or delivered, must be sentenced to pay a
30 \$500 fine and to serve 100 hours of public service in addition
31 to any other penalty prescribed by law.

1 (d) Except as authorized by this chapter, it is
2 unlawful for any person to sell, manufacture, or deliver, or
3 possess with intent to sell, manufacture, or deliver, a
4 controlled substance in, on, or within 200 feet of the real
5 property comprising a public housing facility, within 200 feet
6 of the real property comprising a public or private college,
7 university, or other postsecondary educational institution, or
8 within 200 feet of any public park. Any person who violates
9 this paragraph with respect to:

10 1. A controlled substance named or described in s.
11 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
12 felony of the first degree, punishable as provided in s.
13 775.082, s. 775.083, or s. 775.084.

14 2. A controlled substance named or described in s.
15 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
16 second degree, punishable as provided in s. 775.082, s.
17 775.083, or s. 775.084.

18 3. Any other controlled substance, except as lawfully
19 sold, manufactured, or delivered, must be sentenced to pay a
20 \$500 fine and to serve 100 hours of public service in addition
21 to any other penalty prescribed by law.

22 (2)(a) Except as authorized by this chapter and
23 chapter 499, it is unlawful for any person to purchase, or
24 possess with intent to purchase, a controlled substance. Any
25 person who violates this provision with respect to:

26 1. A controlled substance named or described in s.
27 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
28 felony of the second degree, punishable as provided in s.
29 775.082, s. 775.083, or s. 775.084.

30 2. A controlled substance named or described in s.
31 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the

1 third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 3. A controlled substance named or described in s.
4 893.03(5) commits a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 (4) Except as authorized by this chapter, it is
7 unlawful for any person 18 years of age or older to deliver
8 any controlled substance to a person under the age of 18
9 years, or to use or hire a person under the age of 18 years as
10 an agent or employee in the sale or delivery of such a
11 substance, or to use such person to assist in avoiding
12 detection or apprehension for a violation of this chapter.
13 Any person who violates this provision with respect to:

14 (b) A controlled substance named or described in s.
15 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
16 second degree, punishable as provided in s. 775.082, s.
17 775.083, or s. 775.084.

18
19 Imposition of sentence may not be suspended or deferred, nor
20 shall the person so convicted be placed on probation.

21 (5) It is unlawful for any person to bring into this
22 state any controlled substance unless the possession of such
23 controlled substance is authorized by this chapter or unless
24 such person is licensed to do so by the appropriate federal
25 agency. Any person who violates this provision with respect
26 to:

27 (b) A controlled substance named or described in s.
28 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
29 third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31 Section 11. This act shall take effect July 1, 1997.