

By Senators Brown-Waite, Sullivan, Grant, Latvala, Williams,
Horne, Meadows and McKay

10-218-98

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.03, F.S.; adding ketamine
4 hydrochloride to the list of Schedule II
5 controlled substances; providing penalties;
6 providing that there is a presumption of the
7 presence of gamma-hydroxy-butyrate when certain
8 conditions are met in testing therefor;
9 amending ss. 316.193, 327.35, 415.503, 440.102,
10 458.326, 465.035, 766.101, 817.563, 831.31,
11 856.015, 893.02, 893.0356, 893.08, 893.12,
12 893.13, 921.0022, F.S., to incorporate the
13 amendment of s. 893.03, F.S., in
14 cross-references; providing an effective date.

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

17
18 Section 1. Paragraphs (a) and (b) of subsection (2) of
19 section 893.03, Florida Statutes, are amended to read:

20 893.03 Standards and schedules.--The substances
21 enumerated in this section are controlled by this chapter.
22 The controlled substances listed or to be listed in Schedules
23 I, II, III, IV, and V are included by whatever official,
24 common, usual, chemical, or trade name designated. The
25 provisions of this section shall not be construed to include
26 within any of the schedules contained in this section any
27 excluded drugs listed within the purview of 21 C.F.R. s.
28 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
29 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
30 styled "Exempted Prescription Products"; or 21 C.F.R. s.
31 1308.34, styled "Exempt Anabolic Steroid Products."

1 (2) SCHEDULE II.--A substance in Schedule II has a
2 high potential for abuse and has a currently accepted but
3 severely restricted medical use in treatment in the United
4 States, and abuse of the substance may lead to severe
5 psychological or physical dependence. The following
6 substances are controlled in Schedule II:

7 (a) Unless specifically excepted or unless listed in
8 another schedule, any of the following substances, whether
9 produced directly or indirectly by extraction from substances
10 of vegetable origin or independently by means of chemical
11 synthesis:

12 1. Opium and any salt, compound, derivative, or
13 preparation of opium, except nalmefene or isoquinoline
14 alkaloids of opium, including, but not limited to the
15 following:

- 16 a. Raw opium.
17 b. Opium extracts.
18 c. Opium fluid extracts.
19 d. Powdered opium.
20 e. Granulated opium.
21 f. Tincture of opium.
22 g. Codeine.
23 h. Ethylmorphine.
24 i. Etorphine hydrochloride.
25 j. Hydrocodone.
26 k. Hydromorphone.
27 l. Levo-alpha-acetylmethadol (also known as
28 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
29 m. Metopon (methyldihydromorphinone).
30 n. Morphine.
31 o. Oxycodone.

1 p. Oxymorphone.

2 q. Thebaine.

3 2. Any salt, compound, derivative, or preparation of a
4 substance which is chemically equivalent to or identical with
5 any of the substances referred to in subparagraph 1., except
6 that these substances shall not include the isoquinoline
7 alkaloids of opium.

8 3. Any part of the plant of the species *Papaver*
9 *somniferum*, L.

10 4. Cocaine or ecgonine, including any of their
11 stereoisomers, and any salt, compound, derivative, or
12 preparation of cocaine or ecgonine.

13 5. Dronabinol (synthetic THC) in sesame oil and
14 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
15 Administration approved drug product.

16 6. Gamma-hydroxy-butyrate (GHB). If an unknown sample
17 is submitted for analysis and the pH is less than 7.0, the
18 presence of gamma butyrolactone is sufficient to establish
19 that the unknown sample contains gamma-hydroxy-butyrate (GHB).

20 (b) Unless specifically excepted or unless listed in
21 another schedule, any of the following substances, including
22 their isomers, esters, ethers, salts, and salts of isomers,
23 esters, and ethers, whenever the existence of such isomers,
24 esters, ethers, and salts is possible within the specific
25 chemical designation:

26 1. Alfentanil.

27 2. Alphaprodine.

28 3. Anileridine.

29 4. Bezitramide.

30 5. Bulk dextropropoxyphene (nondosage forms).

31 6. Carfentanil.

1 7. Dihydrocodeine.
2 8. Diphenoxylate.
3 9. Fentanyl.
4 10. Isomethadone.
5 11. Ketamine hydrochloride.
6 ~~12.11.~~ Levomethorphan.
7 ~~13.12.~~ Levorphanol.
8 ~~14.13.~~ Metazocine.
9 ~~15.14.~~ Methadone.
10 ~~16.15.~~ Methadone-Intermediate,4-cyano-2-dimethylamino
11 -4,4-diphenylbutane.
12 ~~17.16.~~ Moramide-Intermediate,2-methyl-3-morpholino-1,
13 1-diphenylpropane-carboxylic acid.
14 ~~18.17.~~ Nabilone.
15 ~~19.18.~~ Pethidine (meperidine).
16 ~~20.19.~~ Pethidine-Intermediate-A,4-cyano-1-methyl-4-
17 phenylpiperidine.
18 ~~21.20.~~ Pethidine-Intermediate-B,ethyl-4-
19 phenylpiperidine-4-carboxylate.
20 ~~22.21.~~ Pethidine-Intermediate-C,1-methyl-4-
21 phenylpiperidine-4-carboxylic acid.
22 ~~23.22.~~ Phenazocine.
23 ~~24.23.~~ Phencyclidine.
24 ~~25.24.~~ 1-Phenylcyclohexylamine.
25 ~~26.25.~~ Piminodine.
26 ~~27.26.~~ 1-Piperidinocyclohexanecarbonitrile.
27 ~~28.27.~~ Racemethorphan.
28 ~~29.28.~~ Racemorphan.
29 ~~30.29.~~ Sufentanil.
30 Section 2. For the purpose of incorporating the
31 amendments to section 893.03, Florida Statutes, in references

1 thereto, subsection (5) of section 316.193, Florida Statutes,
2 is reenacted 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 Section 3. For the purpose of incorporating the
13 amendments to section 893.03, Florida Statutes, in references
14 thereto, subsection (5) of section 327.35, Florida Statutes,
15 is reenacted to read:

16 327.35 Boating under the influence; penalties.--
17 (5) In addition to any sentence or fine, the court
18 shall place any offender convicted of violating this section
19 on monthly reporting probation and shall require attendance at
20 a substance abuse course specified by the court; and the
21 agency conducting the course may refer the offender to an
22 authorized service provider for substance abuse evaluation and
23 treatment, in addition to any sentence or fine imposed under
24 this section. The offender shall assume reasonable costs for
25 such education, evaluation, and treatment, with completion of
26 all such education, evaluation, and treatment being a
27 condition of reporting probation. Treatment resulting from a
28 psychosocial evaluation may not be waived without a supporting
29 psychosocial evaluation conducted by an agency appointed by
30 the court and with access to the original evaluation. The
31 offender shall bear the cost of this procedure. The term

1 "substance abuse" means the abuse of alcohol or any substance
2 named or described in Schedules I through V of s. 893.03.

3 Section 4. For the purpose of incorporating the
4 amendments to section 893.03, Florida Statutes, in references
5 thereto, paragraphs (a) and (g) of subsection (9) of section
6 415.503, Florida Statutes, are reenacted to read:

7 415.503 Definitions of terms used in ss.
8 415.502-415.514.--As used in ss. 415.502-415.514:

9 (9) "Harm" to a child's health or welfare can occur
10 when the parent or other person responsible for the child's
11 welfare:

12 (a) Inflicts, or allows to be inflicted, upon the
13 child physical, mental, or emotional injury. In determining
14 whether harm has occurred, the following factors must be
15 considered in evaluating any physical, mental, or emotional
16 injury to a child: the age of the child; any prior history of
17 injuries to the child; the location of the injury on the body
18 of the child; the multiplicity of the injury; and the type of
19 trauma inflicted. Such injury includes, but is not limited to:

20 1. Willful acts that produce the following specific
21 injuries:

- 22 a. Sprains, dislocations, or cartilage damage.
- 23 b. Bone or skull fractures.
- 24 c. Brain or spinal cord damage.
- 25 d. Intracranial hemorrhage or injury to other internal
26 organs.
- 27 e. Asphyxiation, suffocation, or drowning.
- 28 f. Injury resulting from the use of a deadly weapon.
- 29 g. Burns or scalding.
- 30 h. Cuts, lacerations, punctures, or bites.
- 31 i. Permanent or temporary disfigurement.

1 j. Permanent or temporary loss or impairment of a body
2 part or function.

3
4 As used in this subparagraph, the term "willful" refers to the
5 intent to perform an action, not to the intent to achieve a
6 result or to cause an injury.

7 2. Purposely giving a child poison, alcohol, drugs, or
8 other substances that substantially affect the child's
9 behavior, motor coordination, or judgment or that result in
10 sickness or internal injury. For the purposes of this
11 subparagraph, the term "drugs" means prescription drugs not
12 prescribed for the child or not administered as prescribed,
13 and controlled substances as outlined in Schedule I or
14 Schedule II of s. 893.03.

15 3. Leaving a child without adult supervision or
16 arrangement appropriate for the child's age or mental or
17 physical condition, so that the child is unable to care for
18 the child's own needs or another's basic needs or is unable to
19 exercise good judgment in responding to any kind of physical
20 or emotional crisis.

21 4. Inappropriate or excessively harsh disciplinary
22 action that is likely to result in physical injury, mental
23 injury as defined in this section, or emotional injury. The
24 significance of any injury must be evaluated in light of the
25 following factors: the age of the child, any prior history of
26 injuries to the child, the location of the injury on the body
27 of the child, the multiplicity of the injury, and the type of
28 trauma inflicted. Corporal discipline may be considered
29 excessive or abusive when it results in any of the following
30 or other similar injuries:

31 a. Sprains, dislocations, or cartilage damage.

- 1 b. Bone or skull fractures.
- 2 c. Brain or spinal cord damage.
- 3 d. Intracranial hemorrhage or injury to other internal
4 organs.
- 5 e. Asphyxiation, suffocation, or drowning.
- 6 f. Injury resulting from the use of a deadly weapon.
- 7 g. Burns or scalding.
- 8 h. Cuts, lacerations, punctures, or bites.
- 9 i. Permanent or temporary disfigurement.
- 10 j. Permanent or temporary loss or impairment of a body
11 part or function.
- 12 k. Significant bruises or welts.
- 13 (g) Exposes a child to a controlled substance or
14 alcohol. Exposure to a controlled substance or alcohol is
15 established by:
- 16 1. Use by the mother of a controlled substance or
17 alcohol during pregnancy when the child, at birth, is
18 demonstrably adversely affected by such usage; or
- 19 2. Continued chronic and severe use of a controlled
20 substance or alcohol by a parent when the child is
21 demonstrably adversely affected by such usage. As used in this
22 paragraph, the term "controlled substance" means prescription
23 drugs not prescribed for the parent or not administered as
24 prescribed and controlled substances as outlined in Schedule I
25 or Schedule II of s. 893.03.
- 26
- 27 The parent of a newborn infant may not be subject to criminal
28 investigation solely on the basis of the positive drug
29 toxicology of a newborn infant.
- 30 Section 5. For the purpose of incorporating the
31 amendments to section 893.03, Florida Statutes, in references

1 thereto, paragraph (b) of subsection (11) of section 440.102,
2 Florida Statutes, is reenacted to read:

3 440.102 Drug-free workplace program requirements.--The
4 following provisions apply to a drug-free workplace program
5 implemented pursuant to law or to rules adopted by the Agency
6 for Health Care Administration:

7 (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR
8 SPECIAL-RISK POSITIONS.--

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

22 Section 6. For the purpose of incorporating the
23 amendments to section 893.03, Florida Statutes, in references
24 thereto, subsection (3) of section 458.326, Florida Statutes,
25 is reenacted to read:

26 458.326 Intractable pain; authorized treatment.--

27 (3) Notwithstanding any other provision of law, a
28 physician may prescribe or administer any controlled substance
29 under Schedules II-V, as provided for in s. 893.03, to a
30 person for the treatment of intractable pain, provided the
31 physician does so in accordance with that level of care,

1 skill, and treatment recognized by a reasonably prudent
2 physician under similar conditions and circumstances.

3 Section 7. For the purpose of incorporating the
4 amendments to section 893.03, Florida Statutes, in references
5 thereto, subsection (2) of section 465.035, Florida Statutes,
6 is reenacted to read:

7 465.035 Dispensing of medicinal drugs pursuant to
8 facsimile of prescription.--

9 (2) Controlled substances listed in Schedule II as
10 defined in s. 893.03(2) may be dispensed as provided in this
11 section to the extent allowed by 21 C.F.R. s. 1306.11.

12 Section 8. For the purpose of incorporating the
13 amendments to section 893.03, Florida Statutes, in references
14 thereto, paragraph (a) of subsection (3) of section 766.101,
15 Florida Statutes, is reenacted to read:

16 766.101 Medical review committee, immunity from
17 liability.--

18 (3)(a) There shall be no monetary liability on the
19 part of, and no cause of action for damages shall arise
20 against, any member of a duly appointed medical review
21 committee, or any health care provider furnishing any
22 information, including information concerning the prescribing
23 of substances listed in s. 893.03(2), to such committee, or
24 any person, including any person acting as a witness, incident
25 reporter to, or investigator for, a medical review committee,
26 for any act or proceeding undertaken or performed within the
27 scope of the functions of any such committee if the committee
28 member or health care provider acts without intentional fraud.

29 Section 9. For the purpose of incorporating the
30 amendments to section 893.03, Florida Statutes, in references
31

1 thereto, section 817.563, Florida Statutes, is reenacted to
2 read:

3 817.563 Controlled substance named or described in s.
4 893.03; sale of substance in lieu thereof.--It is unlawful for
5 any person to agree, consent, or in any manner offer to
6 unlawfully sell to any person a controlled substance named or
7 described in s. 893.03 and then sell to such person any other
8 substance in lieu of such controlled substance. Any person who
9 violates this section with respect to:

10 (1) A controlled substance named or described in s.
11 893.03(1), (2), (3), or (4) is guilty of a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (2) A controlled substance named or described in s.
15 893.03(5) is guilty of a misdemeanor of the second degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 Section 10. For the purpose of incorporating the
18 amendments to section 893.03, Florida Statutes, in references
19 thereto, section 831.31, Florida Statutes, is reenacted to
20 read:

21 831.31 Counterfeit controlled substance; sale,
22 manufacture, delivery, or possession with intent to sell,
23 manufacture, or deliver.--

24 (1) It is unlawful for any person to sell,
25 manufacture, or deliver, or to possess with intent to sell,
26 manufacture, or deliver, a counterfeit controlled substance.
27 Any person who violates this subsection with respect to:

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

1 (b) A controlled substance named or described in s.
2 893.03(5) is guilty of a misdemeanor of the second degree,
3 punishable as provided in s. 775.082 or s. 775.083.

4 (2) For purposes of this section, "counterfeit
5 controlled substance" means:

6 (a) A controlled substance named or described in s.
7 893.03 which, or the container or labeling of which, without
8 authorization bears the trademark, trade name, or other
9 identifying mark, imprint, or number, or any likeness thereof,
10 of a manufacturer other than the person who in fact
11 manufactured the controlled substance; or

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

14 Section 11. For the purpose of incorporating the
15 amendments to section 893.03, Florida Statutes, in references
16 thereto, paragraph (d) of subsection (1) of section 856.015,
17 Florida Statutes, is reenacted to read:

18 856.015 Open house parties.--

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

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

22 Section 12. For the purpose of incorporating the
23 amendments to section 893.03, Florida Statutes, in references
24 thereto, subsection (4) of section 893.02, Florida Statutes,
25 is reenacted to read:

26 893.02 Definitions.--The following words and phrases
27 as used in this chapter shall have the following meanings,
28 unless the context otherwise requires:

29 (4) "Controlled substance" means any substance named
30 or described in Schedules I through V of s. 893.03. Laws
31 controlling the manufacture, distribution, preparation,

1 dispensing, or administration of such substances are drug
2 abuse laws.

3 Section 13. For the purpose of incorporating the
4 amendments to section 893.03, Florida Statutes, in references
5 thereto, paragraph (a) of subsection (2) of section 893.0356,
6 Florida Statutes, is reenacted to read:

7 893.0356 Control of new substances; findings of fact;
8 "controlled substance analog" defined.--

9 (2)(a) As used in this section, "controlled substance
10 analog" means a substance which, due to its chemical structure
11 and potential for abuse, meets the following criteria:

12 1. Is substantially similar to that of a controlled
13 substance listed in Schedule I or Schedule II of s. 893.03;
14 and

15 2. Has a stimulant, depressant, or hallucinogenic
16 effect on the central nervous system or is represented or
17 intended to have a stimulant, depressant, or hallucinogenic
18 effect on the central nervous system substantially similar to
19 or greater than that of a controlled substance listed in
20 Schedule I or Schedule II of s. 893.03.

21 Section 14. For the purpose of incorporating the
22 amendments to section 893.03, Florida Statutes, in references
23 thereto, paragraph (b) of subsection (1) of section 893.08,
24 Florida Statutes, is reenacted to read:

25 893.08 Exceptions.--

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

28 (b) Any compound, mixture, or preparation containing
29 any depressant or stimulant substance described in s.
30 893.03(2)(a) or (c) except any amphetamine drug or
31 sympathomimetic amine drug or compound designated as a

1 Schedule II controlled substance pursuant to this chapter; in
2 s. 893.03(3)(a); or in Schedule IV, if:

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

6 2. Such ingredients are included therein in such
7 combinations, quantity, proportion, or concentration as to
8 vitiate the potential for abuse of the controlled substances
9 which do have a depressant or stimulant effect on the central
10 nervous system.

11 Section 15. For the purpose of incorporating the
12 amendments to section 893.03, Florida Statutes, in references
13 thereto, paragraphs (b), (c), and (d) of subsection (2) of
14 section 893.12, Florida Statutes, are reenacted to read:

15 893.12 Contraband; seizure, forfeiture, sale.--
16 (2)

17 (b) All real property, including any right, title,
18 leasehold interest, and other interest in the whole of any lot
19 or tract of land and any appurtenances or improvements, which
20 real property is used, or intended to be used, in any manner
21 or part, to commit or to facilitate the commission of, or
22 which real property is acquired with proceeds obtained as a
23 result of, a violation of any provision of this chapter
24 related to a controlled substance described in s. 893.03(1) or
25 (2) may be seized and forfeited as provided by the Florida
26 Contraband Forfeiture Act except that no property shall be
27 forfeited under this paragraph to the extent of an interest of
28 an owner or lienholder by reason of any act or omission
29 established by that owner or lienholder to have been committed
30 or omitted without the knowledge or consent of that owner or
31 lienholder.

1 (c) All moneys, negotiable instruments, securities,
2 and other things of value furnished or intended to be
3 furnished by any person in exchange for a controlled substance
4 described in s. 893.03(1) or (2) or a listed chemical in
5 violation of any provision of this chapter, all proceeds
6 traceable to such an exchange, and all moneys, negotiable
7 instruments, and securities used or intended to be used to
8 facilitate any violation of any provision of this chapter or
9 which are acquired with proceeds obtained in violation of any
10 provision of this chapter may be seized and forfeited as
11 provided by the Florida Contraband Forfeiture Act, except that
12 no property shall be forfeited under this paragraph to the
13 extent of an interest of an owner or lienholder by reason of
14 any act or omission established by that owner or lienholder to
15 have been committed or omitted without the knowledge or
16 consent of that owner or lienholder.

17 (d) All books, records, and research, including
18 formulas, microfilm, tapes, and data which are used, or
19 intended for use, or which are acquired with proceeds
20 obtained, in violation of any provision of this chapter
21 related to a controlled substance described in s. 893.03(1) or
22 (2) or a listed chemical may be seized and forfeited as
23 provided by the Florida Contraband Forfeiture Act.

24 Section 16. For the purpose of incorporating the
25 amendments to section 893.03, Florida Statutes, in references
26 thereto, subsection (1), paragraph (a) of subsection (2),
27 paragraph (a) of subsection (4), paragraph (a) of subsection
28 (5), and subsection (7) of section 893.13, Florida Statutes,
29 are reenacted to read:

30 893.13 Prohibited acts; penalties.--
31

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

6 1. A controlled substance named or described in s.
7 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
8 felony of the second degree, punishable as provided in s.
9 775.082, s. 775.083, or s. 775.084.

10 2. A controlled substance named or described in s.
11 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
12 third degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14 3. A controlled substance named or described in s.
15 893.03(5) commits a misdemeanor of the first degree,
16 punishable as provided in s. 775.082 or s. 775.083.

17 (b) Except as provided in this chapter, it is unlawful
18 to sell or deliver in excess of 10 grams of any substance
19 named or described in s. 893.03(1)(a) or (1)(b), or any
20 combination thereof, or any mixture containing any such
21 substance. Any person who violates this paragraph commits a
22 felony of the first degree, punishable as provided in s.
23 775.082, s. 775.083, or s. 775.084.

24 (c) Except as authorized by this chapter, it is
25 unlawful for any person to sell, manufacture, or deliver, or
26 possess with intent to sell, manufacture, or deliver a
27 controlled substance in, on, or within 1,000 feet of the real
28 property comprising a child care facility as defined in s.
29 402.302 or a public or private elementary, middle, or
30 secondary school between the hours of 6 a.m. and 12 a.m. Any
31 person who violates this paragraph 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 first degree, punishable as provided in s.
4 775.082, s. 775.083, or s. 775.084. The defendant must be
5 sentenced to a minimum term of imprisonment of 3 calendar
6 years unless the offense was committed within 1,000 feet of
7 the real property comprising a child care facility as defined
8 in s. 402.302.

9 2. A controlled substance named or described in s.
10 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
11 second degree, punishable as provided in s. 775.082, s.
12 775.083, or s. 775.084.

13 3. Any other controlled substance, except as lawfully
14 sold, manufactured, or delivered, must be sentenced to pay a
15 \$500 fine and to serve 100 hours of public service in addition
16 to any other penalty prescribed by law.

17 (d) Except as authorized by this chapter, it is
18 unlawful for any person to sell, manufacture, or deliver, or
19 possess with intent to sell, manufacture, or deliver, a
20 controlled substance in, on, or within 200 feet of the real
21 property comprising a public housing facility, within 200 feet
22 of the real property comprising a public or private college,
23 university, or other postsecondary educational institution, or
24 within 200 feet of any public park. Any person who violates
25 this paragraph 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 first 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 second degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 3. Any other controlled substance, except as lawfully
4 sold, manufactured, or delivered, must be sentenced to pay a
5 \$500 fine and to serve 100 hours of public service in addition
6 to any other penalty prescribed by law.

7 (e) Except as authorized by this chapter, it is
8 unlawful for any person to sell, manufacture, or deliver, or
9 possess with intent to sell, manufacture, or deliver, a
10 controlled substance not authorized by law in, on, or within
11 1,000 feet of a physical place for worship at which a church
12 or religious organization regularly conducts religious
13 services or within 1,000 feet of a convenience business as
14 defined in s. 812.171. Any person who violates this paragraph
15 with respect to:

16 1. A controlled substance named or described in s.
17 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
18 felony of the first degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

20 2. A controlled substance named or described in s.
21 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
22 second degree, punishable as provided in s. 775.082, s.
23 775.083, or s. 775.084.

24 3. Any other controlled substance, except as lawfully
25 sold, manufactured, or delivered, must be sentenced to pay a
26 \$500 fine and to serve 100 hours of public service in addition
27 to any other penalty prescribed by law.

28 (2)(a) Except as authorized by this chapter and
29 chapter 499, it is unlawful for any person to purchase, or
30 possess with intent to purchase, a controlled substance. Any
31 person 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 (4) Except as authorized by this chapter, it is
13 unlawful for any person 18 years of age or older to deliver
14 any controlled substance to a person under the age of 18
15 years, or to use or hire a person under the age of 18 years as
16 an agent or employee in the sale or delivery of such a
17 substance, or to use such person to assist in avoiding
18 detection or apprehension for a violation of this chapter.
19 Any person who violates this provision with respect to:

20 (a) A controlled substance named or described in s.
21 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
22 felony of the first degree, punishable as provided in s.
23 775.082, s. 775.083, or s. 775.084.

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

27 (5) It is unlawful for any person to bring into this
28 state any controlled substance unless the possession of such
29 controlled substance is authorized by this chapter or unless
30 such person is licensed to do so by the appropriate federal
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1 agency. Any person who violates this provision with respect
2 to:

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

7 (7)(a) It is unlawful for any person:

8 1. To distribute or dispense a controlled substance in
9 violation of this chapter.

10 2. To refuse or fail to make, keep, or furnish any
11 record, notification, order form, statement, invoice, or
12 information required under this chapter.

13 3. To refuse an entry into any premises for any
14 inspection or to refuse to allow any inspection authorized by
15 this chapter.

16 4. To distribute a controlled substance named or
17 described in s. 893.03(1) or (2) except pursuant to an order
18 form as required by s. 893.06.

19 5. To keep or maintain any store, shop, warehouse,
20 dwelling, building, vehicle, boat, aircraft, or other
21 structure or place which is resorted to by persons using
22 controlled substances in violation of this chapter for the
23 purpose of using these substances, or which is used for
24 keeping or selling them in violation of this chapter.

25 6. To use to his or her own personal advantage, or to
26 reveal, any information obtained in enforcement of this
27 chapter except in a prosecution or administrative hearing for
28 a violation of this chapter.

29 7. To withhold information from a practitioner from
30 whom the person seeks to obtain a controlled substance or a
31 prescription for a controlled substance that the person has

1 received a controlled substance or a prescription for a
2 controlled substance of like therapeutic use from another
3 practitioner within the last 30 days.

4 8. To possess a prescription form which has not been
5 completed and signed by the practitioner whose name appears
6 printed thereon, unless the person is that practitioner, is an
7 agent or employee of that practitioner, is a pharmacist, or is
8 a supplier of prescription forms who is authorized by that
9 practitioner to possess those forms.

10 9. To acquire or obtain, or attempt to acquire or
11 obtain, possession of a controlled substance by
12 misrepresentation, fraud, forgery, deception, or subterfuge.

13 10. To affix any false or forged label to a package or
14 receptacle containing a controlled substance.

15 11. To furnish false or fraudulent material
16 information in, or omit any material information from, any
17 report or other document required to be kept or filed under
18 this chapter or any record required to be kept by this
19 chapter.

20 (b) Any person who violates the provisions of
21 subparagraphs (a)1.-8. commits a misdemeanor of the first
22 degree, punishable as provided in s. 775.082 or s. 775.083;
23 except that, upon a second or subsequent violation, the person
24 commits a felony of the third degree, punishable as provided
25 in s. 775.082, s. 775.083, or s. 775.084.

26 (c) Any person who violates the provisions of
27 subparagraphs (a)9.-11. commits a felony of the third degree,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084.

30 Section 17. For the purpose of incorporating the
31 amendments to section 893.03, Florida Statutes, in references

1 thereto, paragraph (d) of subsection (3) of section 921.0022,
2 Florida Statutes, is reenacted to read:

3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6	7 Florida	8 Felony	
9	10 Statute	11 Degree	12 Description
13			(d) LEVEL 4
14	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.
15	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
16	784.075	3rd	Battery on detention or commitment facility staff.
17	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
18	784.081(3)	3rd	Battery on specified official or employee.
19	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
20	787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.

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1	787.04(2)	3rd	Take, entice, or remove child
2			beyond state limits with criminal
3			intent pending custody
4			proceedings.
5	787.04(3)	3rd	Carrying child beyond state lines
6			with criminal intent to avoid
7			producing child at custody
8			hearing or delivering to
9			designated person.
10	790.115(1)	3rd	Exhibiting firearm or weapon
11			within 1,000 feet of a school.
12	790.115(2)(b)	3rd	Possessing electric weapon or
13			device, destructive device, or
14			other weapon on school property.
15	790.115(2)(c)	3rd	Possessing firearm on school
16			property.
17	810.02(4)(a)	3rd	Burglary, or attempted burglary,
18			of an unoccupied structure;
19			unarmed; no assault or battery.
20	810.02(4)(b)	3rd	Burglary, or attempted burglary,
21			of an unoccupied conveyance;
22			unarmed; no assault or battery.
23	810.06	3rd	Burglary; possession of tools.
24	810.08(2)(c)	3rd	Trespass on property, armed with
25			firearm or dangerous weapon.
26	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
27			or more but less than \$20,000.
28	812.014		
29	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
30			firearm, motor vehicle,
31			livestock, etc.

1	817.563(1)	3rd	Sell or deliver substance other
2			than controlled substance agreed
3			upon, excluding s. 893.03(5)
4			drugs.
5	828.125(1)	2nd	Kill, maim, or cause great bodily
6			harm or permanent breeding
7			disability to any registered
8			horse or cattle.
9	837.02(1)	3rd	Perjury in official proceedings.
10	837.021(1)	3rd	Make contradictory statements in
11			official proceedings.
12	843.025	3rd	Deprive law enforcement,
13			correctional, or correctional
14			probation officer of means of
15			protection or communication.
16	843.15(1)(a)	3rd	Failure to appear while on bail
17			for felony (bond estreature or
18			bond jumping).
19	874.05(1)	3rd	Encouraging or recruiting another
20			to join a criminal street gang.
21	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
22			893.03(1)(a), (b), or (d), or
23			(2)(a) or (b) drugs).
24	914.14(2)	3rd	Witnesses accepting bribes.
25	914.22(1)	3rd	Force, threaten, etc., witness,
26			victim, or informant.
27	914.23(2)	3rd	Retaliation against a witness,
28			victim, or informant, no bodily
29			injury.
30	918.12	3rd	Tampering with jurors.
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1 Section 18. This act shall take effect October 1,
2 1998.

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5 SENATE SUMMARY

6 Adds ketamine hydrochloride to the list of controlled
7 substances. Provides a presumption with respect to
8 testing for the controlled substance
9 gamma-hydroxy-butyrate.

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