

By Representative Lynn

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.13, F.S., relating to
4 prohibitions against selling, manufacturing,
5 delivering, or possessing with intent to sell,
6 manufacture, or deliver controlled substances
7 within 200 feet of the real property comprising
8 a public housing facility; defining "real
9 property comprising a public housing facility";
10 providing penalties; providing an effective
11 date.

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13 WHEREAS, the Florida Supreme Court in *Brown v. State*,
14 629 So.2d 841 (Fla. 1994), held that s. 893.13(1)(i), Florida
15 Statutes, 1990 Supplement, relating to enhanced penalties for
16 selling, manufacturing, delivering, or possessing with intent
17 to sell, manufacture, or deliver controlled substances within
18 200 feet of a public housing facility, was unconstitutionally
19 vague because the phrase "public housing facility" did not
20 give adequate notice of what conduct was prohibited, and

21 WHEREAS, the court noted that although the phrase was
22 not defined in the statutory section, the term "housing
23 project" had been defined for purposes of a similar statute in
24 Georgia, relating to prohibitions against drug transactions
25 within 1,000 feet of a publicly operated housing project, and

26 WHEREAS, the court also noted that analogous language
27 in s. 893.13(1)(e), providing for enhanced penalties for
28 certain drug offenses that occur within 1,000 feet of a public
29 or private elementary, middle, or secondary school, gave a
30 clearer indication of the conduct prohibited, in comparison to
31 the language of s. 893.139(1)(i), and

1 WHEREAS, it is appropriate to deter and punish drug
2 offenses against children or other vulnerable persons in or
3 near housing projects with equally severe penalties as those
4 imposed for drug offenses against children and other victims
5 in or near schools, NOW, THEREFORE,

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7 Be It Enacted by the Legislature of the State of Florida:

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9 Section 1. Paragraph (d) of subsection (1) of section
10 893.13, Florida Statutes, is amended, and paragraph (f) is
11 added to said subsection, to read:

12 893.13 Prohibited acts; penalties.--

13 (1)

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

21 (d) Except as authorized by this chapter, it is
22 unlawful for any person to sell, manufacture, or deliver, or
23 possess with intent to sell, manufacture, or deliver, a
24 controlled substance in, on, or ~~within 200 feet of the real~~
25 ~~property comprising a public housing facility,~~ within 200 feet
26 of the real property comprising a public or private college,
27 university, or other postsecondary educational institution, or
28 within 200 feet of any public park. Any person who violates
29 this paragraph with respect to:

30 1. A controlled substance named or described in s.
31 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a

1 felony of the first degree, punishable as provided in s.
2 775.082, s. 775.083, or s. 775.084.

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

7 3. Any other controlled substance, except as lawfully
8 sold, manufactured, or delivered, must be sentenced to pay a
9 \$500 fine and to serve 100 hours of public service in addition
10 to any other penalty prescribed by law.

11 (f) Except as authorized by this chapter, it is
12 unlawful for any person to sell, manufacture, or deliver, or
13 possess with intent to sell, manufacture, or deliver, a
14 controlled substance in, on, or within 200 feet of the real
15 property comprising a public housing facility, at any time.
16 For purposes of this section, the term "real property
17 comprising a public housing facility" means real property as
18 defined in s. 421.03(12) of a public corporation created as a
19 housing authority pursuant to part I of chapter 421, and
20 includes, but is not limited to, a housing project as defined
21 in s. 421.03(9) or any facility constituting single or
22 multifamily dwelling units occupied by persons of low income
23 as defined in s. 421.03(10) or handicapped or elderly persons.
24 Any person who violates this paragraph with respect to:

25 1. A controlled substance named or described in s.
26 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
27 felony of the first degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084. The defendant must be
29 sentenced to a minimum term of imprisonment of 3 calendar
30 years.

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