

By Senator Klein

28-563-98

1                                   A bill to be entitled  
2           An act relating to controlled substances;  
3           amending s. 893.13, F.S.; correcting a  
4           misplaced statutory provision relating to the  
5           unlawful sale or possession of a controlled  
6           substance within a specified area surrounding a  
7           child care facility; providing that certain  
8           enhanced penalties do not apply unless the  
9           owner or operator of the facility posts a sign  
10          identifying the facility as a child care  
11          facility; providing an effective date.

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

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15           Section 1. Paragraph (c) of subsection (1) and  
16           subsection (6) of section 893.13, Florida Statutes, are  
17           amended to read:

18           893.13 Prohibited acts; penalties.--

19           (1)

20           (c) Except as authorized by this chapter, it is  
21           unlawful for any person to sell, manufacture, or deliver, or  
22           possess with intent to sell, manufacture, or deliver a  
23           controlled substance in, on, or within 1,000 feet of the real  
24           property comprising a child care facility as defined in s.  
25           402.302 or a public or private elementary, middle, or  
26           secondary school between the hours of 6 a.m. and 12 a.m. Any  
27           person who violates this paragraph with respect to:

28           1. A controlled substance named or described in s.  
29           893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a  
30           felony of the first degree, punishable as provided in s.  
31           775.082, s. 775.083, or s. 775.084. The defendant must be

1 sentenced to a minimum term of imprisonment of 3 calendar  
2 years unless the offense was committed within 1,000 feet of  
3 the real property comprising a child care facility as defined  
4 in s. 402.302.

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 second degree, punishable as provided in s. 775.082, s.  
8 775.083, or s. 775.084.

9           3. Any other controlled substance, except as lawfully  
10 sold, manufactured, or delivered, must be sentenced to pay a  
11 \$500 fine and to serve 100 hours of public service in addition  
12 to any other penalty prescribed by law.

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14 This paragraph does not apply to a child care facility unless  
15 the owner or operator of the facility posts a sign that is not  
16 less than 2 square feet in size with a word legend identifying  
17 the facility as a licensed child care facility and that is  
18 posted on the property of the child care facility in a  
19 conspicuous place where the sign is reasonably visible to the  
20 public.

21           (6)(a) It is unlawful for any person to be in actual  
22 or constructive possession of a controlled substance unless  
23 such controlled substance was lawfully obtained from a  
24 practitioner or pursuant to a valid prescription or order of a  
25 practitioner while acting in the course of his or her  
26 professional practice or to be in actual or constructive  
27 possession of a controlled substance except as otherwise  
28 authorized by this chapter. Any person who violates this  
29 provision commits a felony of the third degree, punishable as  
30 provided in s. 775.082, s. 775.083, or s. 775.084.

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1           (b) If the offense is the possession of not more than  
2 20 grams of cannabis, as defined in this chapter, the person  
3 commits a misdemeanor of the first degree, punishable as  
4 provided in s. 775.082 or s. 775.083. For the purposes of  
5 this subsection, "cannabis" does not include the resin  
6 extracted from the plants of the genus Cannabis, or any  
7 compound manufacture, salt, derivative, mixture, or  
8 preparation of such resin.

9           (c) Except as provided in this chapter, it is unlawful  
10 to possess in excess of 10 grams of any substance named or  
11 described in s. 893.03(1)(a) or (1)(b), or any combination  
12 thereof, or any mixture containing any such substance. Any  
13 person who violates this paragraph commits a felony of the  
14 first degree, punishable as provided in s. 775.082, s.  
15 775.083, or s. 775.084.

16  
17 ~~Paragraph (c) as it relates to a child care facility does not~~  
18 ~~apply unless the owner or operator of the facility posts a~~  
19 ~~sign of not less than 2 square feet in size with a word legend~~  
20 ~~that identifies the facility as a licensed child care facility~~  
21 ~~and that is posted on the property of the child care facility~~  
22 ~~in a conspicuous place where the sign is reasonably visible to~~  
23 ~~the public.~~

24           (d) Notwithstanding any provision to the contrary of  
25 the laws of this state relating to arrest, a law enforcement  
26 officer may arrest without warrant any person who the officer  
27 has probable cause to believe is violating the provisions of  
28 this chapter relating to possession of cannabis.

29           Section 2. This act shall take effect upon becoming a  
30 law.

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SENATE SUMMARY

Corrects a misplaced statutory provision that provides that certain enhanced penalties imposed for the unlawful sale or possession of a controlled substance within 1,000 feet of a child care facility do not apply unless the owner or operator of the facility posts a sign that identifies the facility as a child care facility.