

By the Committee on Crime & Punishment and Representatives Stafford, K. Pruitt, Ball, Wasserman Schultz, Wise, Valdes, Smith, Posey, King, Jacobs, Heyman, Hafner, Goode, Eggelletion, Feeney, Frankel, Starks, Carlton, Dawson-White, (Additional Sponsors on Last Printed Page)

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.03, F.S.; adding flunitrazepam,
4 alpha-ethyltryptamine,
5 2-amino-5-phenyl-2-oxazoline, 4-bromo-2,
6 5-dimethoxyphenethylamine, and methcathinone to
7 the list of Schedule I controlled substances;
8 adding gamma-hydroxy-butyrate to the list of
9 Schedule II controlled substances; adding
10 fenfluramine to Schedule IV; eliminating
11 flunitrazepam from the list of Schedule IV
12 controlled substances; amending s. 893.13,
13 F.S.; eliminating language with respect to
14 penalties for the use of flunitrazepam;
15 revising language with respect to combinations
16 of certain controlled substances; amending s.
17 893.135, F.S.; providing penalties for
18 trafficking in flunitrazepam; amending s.
19 921.0012, F.S.; conforming the sentencing
20 guidelines to the act; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraphs (a) and (c) of subsection (1),
26 paragraph (a) of subsection (2), and subsection (4) of section
27 893.03, Florida Statutes, 1996 Supplement, are amended to
28 read:

29 893.03 Standards and schedules.--The substances
30 enumerated in this section are controlled by this chapter.
31 The controlled substances listed or to be listed in Schedules

1 I, II, III, IV, and V are included by whatever official,
2 common, usual, chemical, or trade name designated. The
3 provisions of this section shall not be construed to include
4 within any of the schedules contained in this section any
5 excluded drugs listed within the purview of 21 C.F.R. s.
6 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
7 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
8 styled "Exempted Prescription Products"; or 21 C.F.R. s.
9 1308.34, styled "Exempt Anabolic Steroid Products."

10 (1) SCHEDULE I.--A substance in Schedule I has a high
11 potential for abuse and has no currently accepted medical use
12 in treatment in the United States and in its use under medical
13 supervision does not meet accepted safety standards. The
14 following substances are controlled in Schedule I:

15 (a) Unless specifically excepted or unless listed in
16 another schedule, any of the following substances, including
17 their isomers, esters, ethers, salts, and salts of isomers,
18 esters, and ethers, whenever the existence of such isomers,
19 esters, ethers, and salts is possible within the specific
20 chemical designation:

- 21 1. Acetyl-alpha-methylfentanyl.
- 22 2. Acetylmethadol.
- 23 3. Allylprodine.
- 24 4. Alphacetylmethadol (except levo-alphacetylmethadol,
25 also known as levo-alpha-acetylmethadol, levomethadyl acetate,
26 or LAAM).
- 27 5. Alphamethadol.
- 28 6. Alpha-methylfentanyl
29 (N-G1-(alpha-methyl-betaphenyl) ethyl-4-piperidyl⁵
30 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)
31 piperidine).

- 1 7. Alpha-methylthiofentanyl.
- 2 8. Alphameprodine.
- 3 9. Benzethidine.
- 4 10. Benzylfentanyl.
- 5 11. Betacetylmethadol.
- 6 12. Beta-hydroxyfentanyl.
- 7 13. Beta-hydroxy-3-methylfentanyl.
- 8 14. Betameprodine.
- 9 15. Betamethadol.
- 10 16. Betaprodine.
- 11 17. Clonitazene.
- 12 18. Dextromoramide.
- 13 19. Diampromide.
- 14 20. Diethylthiambutene.
- 15 21. DifenoXin.
- 16 22. Dimenoxadol.
- 17 23. Dimepheptanol.
- 18 24. Dimethylthiambutene.
- 19 25. Dioxaphetyl butyrate.
- 20 26. Dipipanone.
- 21 27. Ethylmethylthiambutene.
- 22 28. Etonitazene.
- 23 29. EtoXeridine.
- 24 30. Flunitrazepam.
- 25 ~~31.30.~~ Furethidine.
- 26 ~~32.31.~~ Hydroxypethidine.
- 27 ~~33.32.~~ Ketobemidone.
- 28 ~~34.33.~~ Levomoramide.
- 29 ~~35.34.~~ Levophenacylmorphan.
- 30 ~~36.35.~~ 1-Methyl-4-Phenyl-4-Propionoxypiperidine
- 31 (MPPP).

- 1 ~~37.36.~~ 3-Methylfentanyl (N-
2 ~~3~~-methyl-1-(2-phenylethyl)-4-piperidyl~~5~~-N-phenylpropanamide).
3 38.37. 3-Methylthiofentanyl.
4 ~~39.38.~~ 3, 4-Methylenedioxymethamphetamine (MDMA).
5 ~~40.39.~~ Morpheridine.
6 ~~41.40.~~ Noracymethadol.
7 ~~42.41.~~ Norlevorphanol.
8 ~~43.42.~~ Normethadone.
9 ~~44.43.~~ Norpipanone.
10 ~~45.44.~~ Para-Fluorofentanyl.
11 ~~46.45.~~ Phenadoxone.
12 ~~47.46.~~ Phenampromide.
13 ~~48.47.~~ Phenomorphan.
14 ~~49.48.~~ Phenoperidine.
15 ~~50.49.~~ 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine
16 (PEPAP).
17 ~~51.50.~~ Piritramide.
18 ~~52.51.~~ Proheptazine.
19 ~~53.52.~~ Properidine.
20 ~~54.53.~~ Propiram.
21 ~~55.54.~~ Racemoramide.
22 ~~56.55.~~ Thenylfentanyl.
23 ~~57.56.~~ Thiofentanyl.
24 ~~58.57.~~ Tilidine.
25 ~~59.58.~~ Trimeperidine.

26 (c) Unless specifically excepted or unless listed in
27 another schedule, any material, compound, mixture, or
28 preparation which contains any quantity of the following
29 hallucinogenic substances or which contains any of their
30 salts, isomers, and salts of isomers, whenever the existence
31

1 of such salts, isomers, and salts of isomers is possible
2 within the specific chemical designation:

- 3 1. Alpha-ethyltryptamine.
4 ~~2.1.~~ 2-Amino-4-methyl-5-phenyl-2-oxazoline
5 (4-methylaminorex).
6 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
7 ~~4.2.~~ 4-Bromo-2,5-dimethoxyamphetamine.
8 5. 4-Bromo-2, 5-dimethoxyphenethylamine.
9 ~~6.3.~~ Bufotenine.
10 ~~7.4.~~ Cannabis.
11 ~~8.5.~~ Cathinone.
12 ~~9.6.~~ Diethyltryptamine.
13 ~~10.7.~~ 2,5-Dimethoxyamphetamine.
14 ~~11.8.~~ 2,5-Dimethoxy-4-ethylamphetamine (DOET).
15 ~~12.9.~~ Dimethyltryptamine.
16 ~~13.10.~~ N-Ethyl-1-phenylcyclohexylamine (PCE)
17 (Ethylamine analog of phencyclidine).
18 ~~14.11.~~ N-Ethyl-3-piperidyl benzilate.
19 ~~15.12.~~ N-ethylamphetamine.
20 ~~16.13.~~ Fenethylamine.
21 ~~17.14.~~ N-Hydroxy-3,4-methylenedioxyamphetamine.
22 ~~18.15.~~ Ibogaine.
23 ~~19.16.~~ Lysergic acid diethylamide (LSD).
24 ~~20.17.~~ Mescaline.
25 21. Methcathinone.
26 ~~22.18.~~ 5-Methoxy-3,4-methylenedioxyamphetamine.
27 ~~23.19.~~ 4-methoxyamphetamine.
28 ~~24.20.~~ 4-Methyl-2,5-dimethoxyamphetamine.
29 ~~25.21.~~ 3,4-Methylenedioxy-N-ethylamphetamine.
30 ~~26.22.~~ 3,4-Methylenedioxyamphetamine.
31 ~~27.23.~~ N-Methyl-3-piperidyl benzilate.

- 1 ~~28.24.~~ N,N-dimethylamphetamine.
2 ~~29.25.~~ Parahexyl.
3 ~~30.26.~~ Peyote.
4 ~~31.27.~~ N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY)
5 (Pyrrolidine analog of phencyclidine).
6 ~~32.28.~~ Psilocybin.
7 ~~33.29.~~ Psilocyn.
8 ~~34.30.~~ Tetrahydrocannabinols.
9 ~~35.31.~~ 1-~~G~~1-(2-Thienyl)-cyclohexyl~~5~~-piperidine (TCP)
10 (Thiophene analog of phencyclidine).
11 ~~36.32.~~ 3,4,5-Trimethoxyamphetamine.
12 (2) SCHEDULE II.--A substance in Schedule II has a
13 high potential for abuse and has a currently accepted but
14 severely restricted medical use in treatment in the United
15 States, and abuse of the substance may lead to severe
16 psychological or physical dependence. The following
17 substances are controlled in Schedule II:
18 (a) Unless specifically excepted or unless listed in
19 another schedule, any of the following substances, whether
20 produced directly or indirectly by extraction from substances
21 of vegetable origin or independently by means of chemical
22 synthesis:
23 1. Opium and any salt, compound, derivative, or
24 preparation of opium, except nalmefene or isoquinoline
25 alkaloids of opium, including, but not limited to the
26 following:
27 a. Raw opium.
28 b. Opium extracts.
29 c. Opium fluid extracts.
30 d. Powdered opium.
31 e. Granulated opium.

- 1 f. Tincture of opium.
2 g. Codeine.
3 h. Ethylmorphine.
4 i. Etorphine hydrochloride.
5 j. Hydrocodone.
6 k. Hydromorphone.
7 l. Levo-alpha-acetylmethadol (also known as
8 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
9 m. Metopon (methyldihydromorphinone).
10 n. Morphine.
11 o. Oxycodone.
12 p. Oxymorphone.
13 q. Thebaine.
14 2. Any salt, compound, derivative, or preparation of a
15 substance which is chemically equivalent to or identical with
16 any of the substances referred to in subparagraph 1., except
17 that these substances shall not include the isoquinoline
18 alkaloids of opium.
19 3. Any part of the plant of the species *Papaver*
20 *somniferum*, L.
21 4. Cocaine or ecgonine, including any of their
22 stereoisomers, and any salt, compound, derivative, or
23 preparation of cocaine or ecgonine.
24 5. Dronabinol (synthetic THC) in sesame oil and
25 encapsulated in a soft gelatin capsule in a U.S. Food and Drug
26 Administration approved drug product.
27 6. Gamma-hydroxy-butyrate (GHB).
28 (4) SCHEDULE IV.--A substance in Schedule IV has a low
29 potential for abuse relative to the substances in Schedule III
30 and has a currently accepted medical use in treatment in the
31 United States, and abuse of the substance may lead to limited

- 1 physical or psychological dependence relative to the
2 substances in Schedule III. Unless specifically excepted or
3 unless listed in another schedule, any material, compound,
4 mixture, or preparation which contains any quantity of the
5 following substances, including its salts, isomers, and salts
6 of isomers whenever the existence of such salts, isomers, and
7 salts of isomers is possible within the specific chemical
8 designation, are controlled in Schedule IV:
- 9 (a) Alprazolam.
 - 10 (b) Barbital.
 - 11 (c) Bromazepam.
 - 12 (d) Camazepam.
 - 13 (e) Cathine.
 - 14 (f) Chloral betaine.
 - 15 (g) Chloral hydrate.
 - 16 (h) Chlordiazepoxide.
 - 17 (i) Clobazam.
 - 18 (j) Clonazepam.
 - 19 (k) Clorazepate.
 - 20 (l) Clotiazepam.
 - 21 (m) Cloxazolam.
 - 22 (n) Delorazepam.
 - 23 (o) Dextropropoxyphene (dosage forms).
 - 24 (p) Diazepam.
 - 25 (q) Diethylpropion.
 - 26 (r) Estazolam.
 - 27 (s) Ethchlorvynol.
 - 28 (t) Ethinamate.
 - 29 (u) Ethyl loflazepate.
 - 30 (v) Fencamfamin.
 - 31 (w) Fenfluramine.

1 (x)~~(w)~~ Fenproporex.
2 (y)~~(x)~~ Fludiazepam.
3 ~~(y) Flunitrazepam.~~
4 (z) Flurazepam.
5 (aa) Halazepam.
6 (bb) Haloxazolam.
7 (cc) Ketazolam.
8 (dd) Loprazolam.
9 (ee) Lorazepam.
10 (ff) Lormetazepam.
11 (gg) Mazindol.
12 (hh) Mebutamate.
13 (ii) Medazepam.
14 (jj) Mefenorex.
15 (kk) Meprobamate.
16 (ll) Methohexital.
17 (mm) Methylphenobarbital.
18 (nn) Midazolam.
19 (oo) Nimetazepam.
20 (pp) Nitrazepam.
21 (qq) Nordiazepam.
22 (rr) Oxazepam.
23 (ss) Oxazolam.
24 (tt) Paraldehyde.
25 (uu) Pemoline.
26 (vv) Pentazocine.
27 (ww) Phenobarbital.
28 (xx) Phentermine.
29 (yy) Pinazepam.
30 (zz) Pipradrol.
31 (aaa) Prazepam.

1 (bbb) Propylhexedrine, excluding any patent or
2 proprietary preparation containing propylhexedrine, unless
3 otherwise provided by federal law.

4 (ccc) Quazepam.

5 (ddd) Tetrazepam.

6 (eee) SPAG(-)-1 dimethylamino-1, 2 diphenylethane⁵.

7 (fff) Temazepam.

8 (ggg) Triazolam.

9 (hhh) Not more than 1 milligram of difenoxin and not
10 less than 25 micrograms of atropine sulfate per dosage unit.

11 Section 2. Section 893.13, Florida Statutes, 1996
12 Supplement, is reenacted, and paragraph (b) of subsection (1),
13 paragraph (b) of subsection (2), paragraph (c) of subsection
14 (6), and subsection (12) of said section are amended, to read:

15 893.13 Prohibited acts; penalties.--

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

21 1. A controlled substance named or described in s.
22 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
23 felony of the second degree, punishable as provided in s.
24 775.082, s. 775.083, or s. 775.084.

25 2. A controlled substance named or described in s.
26 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
27 third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084.

29 3. A controlled substance named or described in s.
30 893.03(5) commits a misdemeanor of the first degree,
31 punishable as provided in s. 775.082 or s. 775.083.

1 (b) Except as provided in this chapter, it is unlawful
2 to sell or deliver in excess of 10 grams of any substance
3 named or described in s. 893.03(1)(a) or (1)(b), or any
4 mixture containing any substance named or described in s.
5 893.03(1)(a) or (1)(b), or any combination thereof. Any person
6 who violates this paragraph commits a felony of the first
7 degree, punishable as provided in s. 775.082, s. 775.083, or
8 s. 775.084.

9 (c) Except as authorized by this chapter, it is
10 unlawful for any person to sell, manufacture, or deliver, or
11 possess with intent to sell, manufacture, or deliver a
12 controlled substance in, on, or within 1,000 feet of the real
13 property comprising a public or private elementary, middle, or
14 secondary school between the hours of 6 a.m. and 12 a.m. Any
15 person who violates this paragraph 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 and must be sentenced to a
20 minimum term of imprisonment of 3 calendar years.

21 2. A controlled substance named or described in s.
22 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
23 second degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

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

29 (d) Except as authorized by this chapter, it is
30 unlawful for any person to sell, manufacture, or deliver, or
31 possess with intent to sell, manufacture, or deliver, a

1 controlled substance in, on, or within 200 feet of the real
2 property comprising a public housing facility, within 200 feet
3 of the real property comprising a public or private college,
4 university, or other postsecondary educational institution, or
5 within 200 feet of any public park. Any person who violates
6 this paragraph with respect to:

7 1. A controlled substance named or described in s.
8 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a
9 felony of the first degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084.

11 2. A controlled substance named or described in s.
12 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
13 second degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084.

15 3. Any other controlled substance, except as lawfully
16 sold, manufactured, or delivered, must be sentenced to pay a
17 \$500 fine and to serve 100 hours of public service in addition
18 to any other penalty prescribed by law.

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

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

27 2. 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

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

4 (b) Except as provided in this chapter, it is unlawful
5 to purchase in excess of 10 grams of any substance named or
6 described in s. 893.03(1)(a) or (1)(b), or any mixture
7 containing any substance named or described in s. 893.03(1)(a)
8 or (1)(b), or any combination thereof. Any person who
9 violates this paragraph commits a felony of the first degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084.

12 (3) Any person who delivers, without consideration,
13 not more than 20 grams of cannabis, as defined in this
14 chapter, commits a misdemeanor of the first degree, punishable
15 as provided in s. 775.082 or s. 775.083. For the purposes of
16 this paragraph, "cannabis" does not include the resin
17 extracted from the plants of the genus Cannabis or any
18 compound manufacture, salt, derivative, mixture, or
19 preparation of such resin.

20 (4) Except as authorized by this chapter, it is
21 unlawful for any person 18 years of age or older to deliver
22 any controlled substance to a person under the age of 18
23 years, or to use or hire a person under the age of 18 years as
24 an agent or employee in the sale or delivery of such a
25 substance, or to use such person to assist in avoiding
26 detection or apprehension for a violation of this chapter.
27 Any person who violates this provision with respect to:

28 (a) 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.

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

5
6 Imposition of sentence may not be suspended or deferred, nor
7 shall the person so convicted be placed on probation.

8 (5) It is unlawful for any person to bring into this
9 state any controlled substance unless the possession of such
10 controlled substance is authorized by this chapter or unless
11 such person is licensed to do so by the appropriate federal
12 agency. Any person who violates this provision with respect
13 to:

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

18 (b) A controlled substance named or described in s.
19 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
20 third degree, punishable as provided in s. 775.082, s.
21 775.083, or s. 775.084.

22 (c) A controlled substance named or described in s.
23 893.03(5) commits a misdemeanor of the first degree,
24 punishable as provided in s. 775.082 or s. 775.083.

25 (6)(a) It is unlawful for any person to be in actual
26 or constructive possession of a controlled substance unless
27 such controlled substance was lawfully obtained from a
28 practitioner or pursuant to a valid prescription or order of a
29 practitioner while acting in the course of his professional
30 practice or to be in actual or constructive possession of a
31 controlled substance except as otherwise authorized by this

1 chapter. Any person who violates this provision commits a
2 felony of the third degree, punishable as provided in s.
3 775.082, s. 775.083, or s. 775.084.

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

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

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

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

26 1. To distribute or dispense a controlled substance in
27 violation of this chapter.

28 2. To refuse or fail to make, keep, or furnish any
29 record, notification, order form, statement, invoice, or
30 information required under this chapter.

31

1 3. To refuse an entry into any premises for any
2 inspection or to refuse to allow any inspection authorized by
3 this chapter.

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

7 5. To keep or maintain any store, shop, warehouse,
8 dwelling, building, vehicle, boat, aircraft, or other
9 structure or place which is resorted to by persons using
10 controlled substances in violation of this chapter for the
11 purpose of using these substances, or which is used for
12 keeping or selling them in violation of this chapter.

13 6. To use to his or her own personal advantage, or to
14 reveal, any information obtained in enforcement of this
15 chapter except in a prosecution or administrative hearing for
16 a violation of this chapter.

17 7. To withhold information from a practitioner from
18 whom the person seeks to obtain a controlled substance or a
19 prescription for a controlled substance that the person has
20 received a controlled substance or a prescription for a
21 controlled substance of like therapeutic use from another
22 practitioner within the last 30 days.

23 8. To possess a prescription form which has not been
24 completed and signed by the practitioner whose name appears
25 printed thereon, unless the person is that practitioner, is an
26 agent or employee of that practitioner, is a pharmacist, or is
27 a supplier of prescription forms who is authorized by that
28 practitioner to possess those forms.

29 9. To acquire or obtain, or attempt to acquire or
30 obtain, possession of a controlled substance by
31 misrepresentation, fraud, forgery, deception, or subterfuge.

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

3 11. To furnish false or fraudulent material
4 information in, or omit any material information from, any
5 report or other document required to be kept or filed under
6 this chapter or any record required to be kept by this
7 chapter.

8 (b) Any person who violates the provisions of
9 subparagraphs (a)1.-8. commits a misdemeanor of the first
10 degree, punishable as provided in s. 775.082 or s. 775.083;
11 except that, upon a second or subsequent violation, the person
12 commits a felony of the third degree, punishable as provided
13 in s. 775.082, s. 775.083, or s. 775.084.

14 (c) Any person who violates the provisions of
15 subparagraphs (a)9.-11. commits a felony of the third degree,
16 punishable as provided in s. 775.082, s. 775.083, or s.
17 775.084.

18 (8) Notwithstanding any provision to the contrary of
19 the laws of this state:

20 (a) The court may assess for alcohol and other drug
21 abuse programs as provided in s. 893.165 any defendant who
22 pleads guilty or nolo contendere to, or is convicted of, a
23 violation of any provision of this chapter or which involves a
24 criminal violation of s. 316.193, s. 856.011, s. 856.015, or
25 chapter 562, chapter 567, or chapter 568, in addition to any
26 fine and other penalty provided by law, an amount up to the
27 amount of the fine authorized for the violation.

28 (b) The court may assess any defendant who pleads
29 guilty or nolo contendere to, or is convicted of, a violation
30 of any provision of this section, without regard to whether
31 adjudication was withheld, in addition to any fine and other

1 penalty provided or authorized by law, an amount of \$100, to
2 be paid to the clerk of the court, who shall forward it to the
3 Operating Trust Fund of the Department of Law Enforcement to
4 be used by the statewide criminal analysis laboratory system
5 for the purposes specified in s. 943.361.

6
7 The court is authorized to order a defendant to pay an
8 additional assessment if it finds that the defendant has the
9 ability to pay the fine and the additional assessment and will
10 not be prevented thereby from being rehabilitated or from
11 making restitution.

12 (9) The provisions of subsections (1) through (7) are
13 not applicable to the delivery to, or actual or constructive
14 possession for medical or scientific use or purpose only of
15 controlled substances by, persons included in any of the
16 following classes, or the agents or employees of such persons,
17 for use in the usual course of their business or profession or
18 in the performance of their official duties:

19 (a) Pharmacists.

20 (b) Practitioners.

21 (c) Persons who procure controlled substances in good
22 faith and in the course of professional practice only, by or
23 under the supervision of pharmacists or practitioners employed
24 by them, or for the purpose of lawful research, teaching, or
25 testing, and not for resale.

26 (d) Hospitals that procure controlled substances for
27 lawful administration by practitioners, but only for use by or
28 in the particular hospital.

29 (e) Officers or employees of state, federal, or local
30 governments acting in their official capacity only, or
31 informers acting under their jurisdiction.

1 (f) Common carriers.

2 (g) Manufacturers, wholesalers, and distributors.

3 (h) Law enforcement officers for bona fide law
4 enforcement purposes in the course of an active criminal
5 investigation.

6 (10) Notwithstanding any provision of the sentencing
7 guidelines to the contrary, on or after October 1, 1993, any
8 defendant who:

9 (a) Violates subparagraph (1)(a)1., subparagraph
10 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or
11 paragraph (5)(a); and

12 (b) Has not previously been convicted, regardless of
13 whether adjudication was withheld, of any felony, other than a
14 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,
15 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph
16 (5)(a),

17
18 may be required by the court to successfully complete a term
19 of probation pursuant to the terms and conditions set forth in
20 s. 948.034(1), in lieu of serving a term of imprisonment.

21 (11) Notwithstanding any provision of the sentencing
22 guidelines to the contrary, on or after January 1, 1994, any
23 defendant who:

24 (a) Violates subparagraph (1)(a)2., subparagraph
25 (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

26 (b) Has not previously been convicted, regardless of
27 whether adjudication was withheld, of any felony, other than a
28 violation of subparagraph (1)(a)2., subparagraph (2)(a)2.,
29 paragraph (5)(b), or paragraph (6)(a),

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1 may be required by the court to successfully complete a term
2 of probation pursuant to the terms and conditions set forth in
3 s. 948.034(2), in lieu of serving a term of imprisonment.

4 ~~(12) Notwithstanding any provision of the laws of this~~
5 ~~state to the contrary, any unauthorized activity under this~~
6 ~~section which involves flunitrazepam shall be subject to the~~
7 ~~same penalties as are provided for in this section for~~
8 ~~violations involving controlled substances named or described~~
9 ~~in s. 893.03(1)(a).~~

10 Section 3. Paragraph (g) is added to subsection (1) of
11 section 893.135, Florida Statutes, 1996 Supplement, to read:

12 893.135 Trafficking; mandatory sentences; suspension
13 or reduction of sentences; conspiracy to engage in
14 trafficking.--

15 (1) Except as authorized in this chapter or in chapter
16 499 and notwithstanding the provisions of s. 893.13:

17 (g)1. Any person who knowingly sells, purchases,
18 manufactures, delivers, or brings into this state, or who is
19 knowingly in actual or constructive possession of, 4 grams or
20 more of flunitrazepam or any mixture containing flunitrazepam
21 as described in s. 893.03(1)(a) commits a felony of the first
22 degree, which felony shall be known as "trafficking in
23 flunitrazepam." If the quantity involved:

24 a. Is 4 grams or more but less than 14 grams, such
25 person shall be sentenced pursuant to the sentencing
26 guidelines and pay a fine of \$50,000.

27 b. Is 14 grams or more but less than 28 grams, such
28 person shall be sentenced pursuant to the sentencing
29 guidelines and pay a fine of \$100,000.

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1 c. Is 28 grams or more but less than 30 kilograms,
2 such person shall be sentenced to a mandatory minimum term of
3 imprisonment of 25 calendar years and pay a fine of \$500,000.

4 2. Any person who knowingly sells, purchases,
5 manufactures, delivers, or brings into this state or who is
6 knowingly in actual or constructive possession of 30 kilograms
7 or more of flunitrazepam or any mixture containing
8 flunitrazepam as described in s. 893.03(1)(a) commits the
9 first degree felony of trafficking in flunitrazepam. A person
10 who has been convicted of the first degree felony of
11 trafficking in flunitrazepam under this subparagraph shall be
12 punished by life imprisonment and is ineligible for any form
13 of discretionary early release except pardon or executive
14 clemency or conditional medical release under s. 947.149.
15 However, if the court determines that, in addition to
16 committing any act specified in this paragraph:

17 a. The person intentionally killed an individual or
18 counseled, commanded, induced, procured, or caused the
19 intentional killing of an individual and such killing was the
20 result; or

21 b. The person's conduct in committing that act led to
22 a natural, though not inevitable, lethal result,
23
24 such person commits the capital felony of trafficking in
25 flunitrazepam, punishable as provided in ss. 775.082 and
26 921.142. Any person sentenced for a capital felony under this
27 paragraph shall also be sentenced to pay the maximum fine
28 provided under subparagraph 1.

29 Section 4. Paragraphs (g) and (h) of subsection (3) of
30 section 921.0012, Florida Statutes, 1996 Supplement, are
31 amended to read:

1	921.0012	Sentencing guidelines offense levels; offense	
2	severity ranking chart.--		
3	(3)	OFFENSE SEVERITY RANKING CHART	
4	Florida	Felony	
5	Statute	Degree	Description
6			
7			(g) LEVEL 7
8	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
9			injury.
10	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
11			bodily injury.
12	409.920(2)	3rd	Medicaid provider fraud.
13	494.0018(2)	1st	Conviction of any violation of
14			ss. 494.001-494.0077 in which the
15			total money and property
16			unlawfully obtained exceeded
17			\$50,000 and there were five or
18			more victims.
19	782.07(1)	2nd	Killing of a human being by the
20			act, procurement, or culpable
21			negligence of another
22			(manslaughter).
23	782.071(1)	3rd	Killing of human being by the
24			operation of a motor vehicle in a
25			reckless manner (vehicular
26			homicide).
27	782.072(1)	3rd	Killing of a human being by the
28			operation of a vessel in a
29			reckless manner (vessel
30			homicide).
31			

1	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
2			causing great bodily harm or
3			disfigurement.
4	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
5			weapon.
6	784.045(1)(b)	2nd	Aggravated battery; perpetrator
7			aware victim pregnant.
8	784.048(4)	3rd	Aggravated stalking; violation of
9			injunction or court order.
10	784.07(2)(d)	1st	Aggravated battery on law
11			enforcement officer.
12	784.08(2)(a)	1st	Aggravated battery on a person 65
13			years of age or older.
14	784.081(1)	1st	Aggravated battery on specified
15			official or employee.
16	784.082(1)	1st	Aggravated battery by detained
17			person on visitor or other
18			detainee.
19	790.07(4)	1st	Specified weapons violation
20			subsequent to previous conviction
21			of s. 790.07(1) or (2).
22	790.16(1)	1st	Discharge of a machine gun under
23			specified circumstances.
24	796.03	2nd	Procuring any person under 16
25			years for prostitution.
26	800.04	2nd	Handle, fondle, or assault child
27			under 16 years in lewd,
28			lascivious, or indecent manner.
29	806.01(2)	2nd	Maliciously damage structure by
30			fire or explosive.
31			

1	810.02(3)(a)	2nd	Burglary of occupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(d)	2nd	Burglary of occupied conveyance;
6			unarmed; no assault or battery.
7	812.014(2)(a)	1st	Property stolen, valued at
8			\$100,000 or more; property stolen
9			while causing other property
10			damage; 1st degree grand theft.
11	812.019(2)	1st	Stolen property; initiates,
12			organizes, plans, etc., the theft
13			of property and traffics in
14			stolen property.
15	812.133(2)(b)	1st	Carjacking; no firearm, deadly
16			weapon, or other weapon.
17	825.102(3)(b)	2nd	Neglecting an elderly person or
18			disabled adult causing great
19			bodily harm, disability, or
20			disfigurement.
21	825.1025(2)	2nd	Lewd or lascivious battery upon
22			an elderly person or disabled
23			adult.
24	825.103(2)(b)	2nd	Exploiting an elderly person or
25			disabled adult and property is
26			valued at \$20,000 or more, but
27			less than \$100,000.
28	827.03(3)(b)	2nd	Neglect of a child causing great
29			bodily harm, disability, or
30			disfigurement.
31			

1	827.04(4)	3rd	Impregnation of a child under 16
2			years of age by person 21 years
3			of age or older.
4	872.06	2nd	Abuse of a dead human body.
5	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
6			cocaine (or other s.
7			893.03(1)(a), (1)(b), (1)(d),
8			(2)(a), or (2)(b) drugs) within
9			1,000 feet of a school.
10	893.13(4)(a)	1st	Deliver to minor cocaine (or
11			other s. 893.03(1)(a), (1)(b),
12			(1)(d), (2)(a), or (2)(b) drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
30			
31			

1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	<u>893.135(1)(g)1.a.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 4</u>
5			<u>grams or more, less than 14</u>
6			<u>grams.</u>
7			
8			(h) LEVEL 8
9	316.193		
10	(3)(c)3.a.	2nd	DUI manslaughter.
11	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
12	777.03(2)(a)	1st	Accessory after the fact, capital
13			felony.
14	782.04(4)	2nd	Killing of human without design
15			when engaged in act or attempt of
16			any felony other than arson,
17			sexual battery, robbery,
18			burglary, kidnapping, aircraft
19			piracy, or unlawfully discharging
20			bomb.
21	782.071(2)	2nd	Committing vehicular homicide and
22			failing to render aid or give
23			information.
24	782.072(2)	2nd	Committing vessel homicide and
25			failing to render aid or give
26			information.
27	790.161(3)	1st	Discharging a destructive device
28			which results in bodily harm or
29			property damage.
30			
31			

1	794.011(5)	2nd	Sexual battery, victim 12 years
2			or over, offender does not use
3			physical force likely to cause
4			serious injury.
5	806.01(1)	1st	Maliciously damage dwelling or
6			structure by fire or explosive,
7			believing person in structure.
8	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
9	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
10			or dangerous weapon.
11	810.02(2)(c)	1st	Burglary of a dwelling or
12			structure causing structural
13			damage or \$1,000 or more property
14			damage.
15	812.13(2)(b)	1st	Robbery with a weapon.
16	812.135(2)	1st	Home-invasion robbery.
17	825.102(2)	2nd	Aggravated abuse of an elderly
18			person or disabled adult.
19	825.103(2)(a)	1st	Exploiting an elderly person or
20			disabled adult and property is
21			valued at \$100,000 or more.
22	827.03(2)	2nd	Aggravated child abuse.
23	860.121(2)(c)	1st	Shooting at or throwing any
24			object in path of railroad
25			vehicle resulting in great bodily
26			harm.
27	860.16	1st	Aircraft piracy.
28	893.13(1)(b)	1st	Sell or deliver in excess of 10
29			grams of any substance specified
30			in s. 893.03(1)(a) or (b).
31			

1	893.13(2)(b)	1st	Purchase in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.13(6)(c)	1st	Possess in excess of 10 grams of
5			any substance specified in s.
6			893.03(1)(a) or (b).
7	893.135(1)(a)2.	1st	Trafficking in cannabis, more
8			than 2,000 lbs., less than 10,000
9			lbs.
10	893.135		
11	(1)(b)1.b.	1st	Trafficking in cocaine, more than
12			200 grams, less than 400 grams.
13	893.135		
14	(1)(c)1.b.	1st	Trafficking in illegal drugs,
15			more than 14 grams, less than 28
16			grams.
17	893.135(1)(d)2.	1st	Trafficking in phencyclidine,
18			more than 200 grams, less than
19			400 grams.
20	893.135(1)(e)2.	1st	Trafficking in methaqualone, more
21			than 5 kilograms, less than 25
22			kilograms.
23	893.135(1)(f)2.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	<u>893.135 (1)(g)1.b.1st</u>		<u>Trafficking in flunitrazepam, 14</u>
27			<u>grams or more, less than 28</u>
28			<u>grams.</u>
29	895.03(1)	1st	Use or invest proceeds derived
30			from pattern of racketeering
31			activity.

1 895.03(2) 1st Acquire or maintain through
2 racketeering activity any
3 interest in or control of any
4 enterprise or real property.
5 895.03(3) 1st Conduct or participate in any
6 enterprise through pattern of
7 racketeering activity.
8 Section 5. This act shall take effect July 1, 1997.

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11 *****

12
13 ADDITIONAL SPONSORS

14 Maygarden, Murman, Ritter, Healey, Kelly, Rayson, Silver,
15 Fischer, Morroni, Saunders, Spratt, Livingston and Lynn
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