

By Senators Brown-Waite, Sullivan, Cowin, Klein, Bronson, Horne, Clary, McKay, Forman, Holzendorf, Latvala, Childers, Grant and Sebesta

10-98C-99

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.03, F.S., relating to
4 scheduling of controlled substances for the
5 purpose of penalizing unlawful acts involving
6 controlled substances; deleting references to
7 dextropropoxyphene in its nondosage forms from
8 Schedule II; adding references to propoxyphene
9 in its nondosage forms to Schedule II; deleting
10 references to gamma-hydroxy-butyrate from
11 Schedule II; adding references to
12 gamma-hydroxybutyric acid to Schedule II;
13 adding references to ketamine to Schedule III;
14 deleting references to dextropropoxyphene in
15 its dosage forms from Schedule IV; adding
16 references to propoxyphene in its dosage forms
17 to Schedule IV; reenacting ss. 39.01(30)(a) and
18 (g), 440.102(11)(b), 458.326(3), 465.035(2),
19 766.101(3)(a), 817.563, 831.31, 856.015(1)(d),
20 893.02(4), 893.0356(2)(a), 893.08(1)(b),
21 893.12(2)(b), (c), and (d), 893.13(1), (2)(a),
22 (4), (5)(a) and (b), and (7), and
23 921.0022(3)(b), (c), (d), (e), and (g), F.S.,
24 relating to child welfare, drug-free-workplace
25 requirements, authorized medical treatment, the
26 sale or possession of controlled substances,
27 contraband, prohibited acts with respect to the
28 sale and possession of controlled substances,
29 and the Criminal Punishment Code, to
30 incorporate the amendments to s. 893.03, F.S.,
31 in cross-references; amending s. 893.035, F.S.,

1 relating to the delegation of authority to the
2 Attorney General to control substances by rule;
3 conforming terminology to reflect the
4 reorganization of the Department of Business
5 and Professional Regulation and the creation of
6 the Department of Health; providing an
7 effective date.

8

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

10

11 Section 1. Subsections (2), (3), and (4) of section
12 893.03, Florida Statutes, are amended to read:

13 893.03 Standards and schedules.--The substances
14 enumerated in this section are controlled by this chapter.
15 The controlled substances listed or to be listed in Schedules
16 I, II, III, IV, and V are included by whatever official,
17 common, usual, chemical, or trade name designated. The
18 provisions of this section shall not be construed to include
19 within any of the schedules contained in this section any
20 excluded drugs listed within the purview of 21 C.F.R. s.
21 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24,
22 styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32,
23 styled "Exempted Prescription Products"; or 21 C.F.R. s.
24 1308.34, styled "Exempt Anabolic Steroid Products."

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

31

1 (a) Unless specifically excepted or unless listed in
2 another schedule, any of the following substances, whether
3 produced directly or indirectly by extraction from substances
4 of vegetable origin or independently by means of chemical
5 synthesis:

6 1. Opium and any salt, compound, derivative, or
7 preparation of opium, except nalmefene or isoquinoline
8 alkaloids of opium, including, but not limited to the
9 following:

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

28 2. Any salt, compound, derivative, or preparation of a
29 substance which is chemically equivalent to or identical with
30 any of the substances referred to in subparagraph 1., except
31

1 that these substances shall not include the isoquinoline
2 alkaloids of opium.

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

5 4. Cocaine or ecgonine, including any of their
6 stereoisomers, and any salt, compound, derivative, or
7 preparation of cocaine or ecgonine.

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

11 ~~6. Gamma-hydroxy-butyrate (GHB).~~

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

18 1. Alfentanil.

19 2. Alphaprodine.

20 3. Anileridine.

21 4. Bezitramide.

22 5. Bulk propoxyphene ~~dextropropoxyphene~~ (nondosage
23 forms).

24 6. Carfentanil.

25 7. Dihydrocodeine.

26 8. Diphenoxylate.

27 9. Fentanyl.

28 10. Gamma-hydroxybutyric acid (GHB).

29 ~~11.10. Isomethadone.~~

30 ~~12.11. Levomethorphan.~~

31 ~~13.12. Levorphanol.~~

- 1 ~~14.13.~~ Metazocine.
2 ~~15.14.~~ Methadone.
3 ~~16.15.~~ Methadone-Intermediate, 4-cyano-2-dimethylamino-
4 4,4-diphenylbutane.
5 ~~17.16.~~ Moramide-Intermediate, 2-methyl-3-morpholino-
6 1,1-diphenylpropane-carboxylic acid.
7 ~~18.17.~~ Nabilone.
8 ~~19.18.~~ Pethidine (meperidine).
9 ~~20.19.~~ Pethidine-Intermediate-A, 4-cyano-1-methyl-
10 4-phenylpiperidine.
11 ~~21.20.~~ Pethidine-Intermediate-B, ethyl-
12 4-phenylpiperidine-4-carboxylate.
13 ~~22.21.~~ Pethidine-Intermediate-C, 1-methyl-
14 4-phenylpiperidine-4-carboxylic acid.
15 ~~23.22.~~ Phenazocine.
16 ~~24.23.~~ Phencyclidine.
17 ~~25.24.~~ 1-Phenylcyclohexylamine.
18 ~~26.25.~~ Piminodine.
19 ~~27.26.~~ 1-Piperidinocyclohexanecarbonitrile.
20 ~~28.27.~~ Racemethorphan.
21 ~~29.28.~~ Racemorphan.
22 ~~30.29.~~ Sufentanil.
23 (c) Unless specifically excepted or unless listed in
24 another schedule, any material, compound, mixture, or
25 preparation which contains any quantity of the following
26 substances, including their salts, isomers, optical isomers,
27 salts of their isomers, and salts of their optical isomers:
28 1. Amobarbital.
29 2. Amphetamine.
30 3. Glutethimide.
31 4. Methamphetamine.

- 1 5. Methylphenidate.
- 2 6. Pentobarbital.
- 3 7. Phenmetrazine.
- 4 8. Phenylacetone.
- 5 9. Secobarbital.
- 6 (3) SCHEDULE III.--A substance in Schedule III has a
- 7 potential for abuse less than the substances contained in
- 8 Schedules I and II and has a currently accepted medical use in
- 9 treatment in the United States, and abuse of the substance may
- 10 lead to moderate or low physical dependence or high
- 11 psychological dependence or, in the case of anabolic steroids,
- 12 may lead to physical damage. The following substances are
- 13 controlled in Schedule III:
- 14 (a) Unless specifically excepted or unless listed in
- 15 another schedule, any material, compound, mixture, or
- 16 preparation which contains any quantity of the following
- 17 substances having a depressant or stimulant effect on the
- 18 nervous system:
- 19 1. Any substance which contains any quantity of a
- 20 derivative of barbituric acid, including thiobarbituric acid,
- 21 or any salt of a derivative of barbituric acid or
- 22 thiobarbituric acid, including, but not limited to,
- 23 butabarbital and butalbital.
- 24 2. Benzphetamine.
- 25 3. Chlorhexadol.
- 26 4. Chlorphentermine.
- 27 5. Clortermine.
- 28 6. Lysergic acid.
- 29 7. Lysergic acid amide.
- 30 8. Methyprylon.
- 31 9. Phendimetrazine.

- 1 10. Sulfondiethylmethane.
- 2 11. Sulfonethylmethane.
- 3 12. Sulfonmethane.
- 4 13. Tiletamine and zolazepam or any salt thereof.
- 5 (b) Nalorphine.
- 6 (c) Unless specifically excepted or unless listed in
- 7 another schedule, any material, compound, mixture, or
- 8 preparation containing limited quantities of any of the
- 9 following controlled substances or any salts thereof:
- 10 1. Not more than 1.8 grams of codeine per 100
- 11 milliliters or not more than 90 milligrams per dosage unit,
- 12 with an equal or greater quantity of an isoquinoline alkaloid
- 13 of opium.
- 14 2. Not more than 1.8 grams of codeine per 100
- 15 milliliters or not more than 90 milligrams per dosage unit,
- 16 with recognized therapeutic amounts of one or more active
- 17 ingredients which are not controlled substances.
- 18 3. Not more than 300 milligrams of hydrocodone per 100
- 19 milliliters or not more than 15 milligrams per dosage unit,
- 20 with a fourfold or greater quantity of an isoquinoline
- 21 alkaloid of opium.
- 22 4. Not more than 300 milligrams of hydrocodone per 100
- 23 milliliters or not more than 15 milligrams per dosage unit,
- 24 with recognized therapeutic amounts of one or more active
- 25 ingredients which are not controlled substances.
- 26 5. Not more than 1.8 grams of dihydrocodeine per 100
- 27 milliliters or not more than 90 milligrams per dosage unit,
- 28 with recognized therapeutic amounts of one or more active
- 29 ingredients which are not controlled substances.
- 30 6. Not more than 300 milligrams of ethylmorphine per
- 31 100 milliliters or not more than 15 milligrams per dosage

1 unit, with one or more active, nonnarcotic ingredients in
2 recognized therapeutic amounts.

3 7. Not more than 50 milligrams of morphine per 100
4 milliliters or per 100 grams, with recognized therapeutic
5 amounts of one or more active ingredients which are not
6 controlled substances.

7 (d) Anabolic steroids.

8 1. The term "anabolic steroid" means any drug or
9 hormonal substance, chemically and pharmacologically related
10 to testosterone, other than estrogens, progestins, and
11 corticosteroids, that promotes muscle growth and includes:

- 12 a. Androsterone.
- 13 b. Androsterone acetate.
- 14 c. Boldenone.
- 15 d. Boldenone acetate.
- 16 e. Boldenone benzoate.
- 17 f. Boldenone undecylenate.
- 18 g. Chlorotestosterone (4-chlortestosterone).
- 19 h. Clostebol.
- 20 i. Dehydrochlormethyltestosterone.
- 21 j. Dihydrotestosterone (4-dihydrotestosterone).
- 22 k. Drostanolone.
- 23 l. Ethylestrenol.
- 24 m. Fluoxymesterone.
- 25 n. Formebolone (formebolone).
- 26 o. Mesterolone.
- 27 p. Methandienone.
- 28 q. Methandranone.
- 29 r. Methandriol.
- 30 s. Methandrostenolone.
- 31 t. Methenolone.

- 1 u. Methyltestosterone.
- 2 v. Mibolerone.
- 3 w. Nandrolone.
- 4 x. Norethandrolone.
- 5 y. Nortestosterone.
- 6 z. Nortestosterone decanoate.
- 7 aa. Nortestosterone phenylpropionate.
- 8 bb. Nortestosterone propionate.
- 9 cc. Oxandrolone.
- 10 dd. Oxymesterone.
- 11 ee. Oxymetholone.
- 12 ff. Stanolone.
- 13 gg. Stanozolol.
- 14 hh. Testolactone.
- 15 ii. Testosterone.
- 16 jj. Testosterone acetate.
- 17 kk. Testosterone benzoate.
- 18 ll. Testosterone cypionate.
- 19 mm. Testosterone decanoate.
- 20 nn. Testosterone enanthate.
- 21 oo. Testosterone isocaproate.
- 22 pp. Testosterone oleate.
- 23 qq. Testosterone phenylpropionate.
- 24 rr. Testosterone propionate.
- 25 ss. Testosterone undecanoate.
- 26 tt. Trenbolone.
- 27 uu. Trenbolone acetate.
- 28 vv. Any salt, ester, or isomer of a drug or substance
- 29 described or listed in this subparagraph if that salt, ester,
- 30 or isomer promotes muscle growth.
- 31

1 2. The term does not include an anabolic steroid that
2 is expressly intended for administration through implants to
3 cattle or other nonhuman species and that has been approved by
4 the United States Secretary of Health and Human Services for
5 such administration. However, any person who prescribes,
6 dispenses, or distributes such a steroid for human use is
7 considered to have prescribed, dispensed, or distributed an
8 anabolic steroid within the meaning of this paragraph.

9 (e) Ketamine, including any isomers, esters, ethers,
10 salts, and salts of isomers, esters, and ethers, whenever the
11 existence of such isomers, esters, ethers, and salts is
12 possible within the specific chemical designation.

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

- 25 (a) Alprazolam.
26 (b) Barbital.
27 (c) Bromazepam.
28 (d) Camazepam.
29 (e) Cathine.
30 (f) Chloral betaine.
31 (g) Chloral hydrate.

- 1 (h) Chlordiazepoxide.
- 2 (i) Clobazam.
- 3 (j) Clonazepam.
- 4 (k) Clorazepate.
- 5 (l) Clotiazepam.
- 6 (m) Cloxazolam.
- 7 (n) Delorazepam.
- 8 (o) Propoxyphene ~~Dextropropoxyphene~~ (dosage forms).
- 9 (p) Diazepam.
- 10 (q) Diethylpropion.
- 11 (r) Estazolam.
- 12 (s) Ethchlorvynol.
- 13 (t) Ethinamate.
- 14 (u) Ethyl loflazepate.
- 15 (v) Fencamfamin.
- 16 (w) Fenfluramine.
- 17 (x) Fenproporex.
- 18 (y) Fludiazepam.
- 19 (z) Flurazepam.
- 20 (aa) Halazepam.
- 21 (bb) Haloxazolam.
- 22 (cc) Ketazolam.
- 23 (dd) Loprazolam.
- 24 (ee) Lorazepam.
- 25 (ff) Lormetazepam.
- 26 (gg) Mazindol.
- 27 (hh) Mebutamate.
- 28 (ii) Medazepam.
- 29 (jj) Mefenorex.
- 30 (kk) Meprobamate.
- 31 (ll) Methohexital.

1 (mm) Methylphenobarbital.
2 (nn) Midazolam.
3 (oo) Nimetazepam.
4 (pp) Nitrazepam.
5 (qq) Nordiazepam.
6 (rr) Oxazepam.
7 (ss) Oxazolam.
8 (tt) Paraldehyde.
9 (uu) Pemoline.
10 (vv) Pentazocine.
11 (ww) Phenobarbital.
12 (xx) Phentermine.
13 (yy) Pinazepam.
14 (zz) Pipradrol.
15 (aaa) Prazepam.
16 (bbb) Propylhexedrine, excluding any patent or
17 proprietary preparation containing propylhexedrine, unless
18 otherwise provided by federal law.
19 (ccc) Quazepam.
20 (ddd) Tetrazepam.
21 (eee) SPA[(-)-1 dimethylamino-1, 2 diphenylethane].
22 (fff) Temazepam.
23 (ggg) Triazolam.
24 (hhh) Not more than 1 milligram of difenoxin and not
25 less than 25 micrograms of atropine sulfate per dosage unit.
26 (iii) Butorphanol tartrate.
27 Section 2. For the purpose of incorporating the
28 amendments to section 893.03, Florida Statutes, in references
29 thereto, paragraphs (a) and (g) of subsection (30) of section
30 39.01, Florida Statutes, 1998 Supplement, are reenacted to
31 read:

1 39.01 Definitions.--When used in this chapter, unless
2 the context otherwise requires:

3 (30) "Harm" to a child's health or welfare can occur
4 when the parent, legal custodian, or caregiver responsible for
5 the child's welfare:

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

- 14 1. Willful acts that produce the following specific
15 injuries:
- 16 a. Sprains, dislocations, or cartilage damage.
 - 17 b. Bone or skull fractures.
 - 18 c. Brain or spinal cord damage.
 - 19 d. Intracranial hemorrhage or injury to other internal
20 organs.
 - 21 e. Asphyxiation, suffocation, or drowning.
 - 22 f. Injury resulting from the use of a deadly weapon.
 - 23 g. Burns or scalding.
 - 24 h. Cuts, lacerations, punctures, or bites.
 - 25 i. Permanent or temporary disfigurement.
 - 26 j. Permanent or temporary loss or impairment of a body
27 part or function.

28
29 As used in this subparagraph, the term "willful" refers to the
30 intent to perform an action, not to the intent to achieve a
31 result or to cause an injury.

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

9 3. Leaving a child without adult supervision or
10 arrangement appropriate for the child's age or mental or
11 physical condition, so that the child is unable to care for
12 the child's own needs or another's basic needs or is unable to
13 exercise good judgment in responding to any kind of physical
14 or emotional crisis.

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

- 25 a. Sprains, dislocations, or cartilage damage.
- 26 b. Bone or skull fractures.
- 27 c. Brain or spinal cord damage.
- 28 d. Intracranial hemorrhage or injury to other internal
29 organs.
- 30 e. Asphyxiation, suffocation, or drowning.
- 31 f. Injury resulting from the use of a deadly weapon.

- 1 g. Burns or scalding.
2 h. Cuts, lacerations, punctures, or bites.
3 i. Permanent or temporary disfigurement.
4 j. Permanent or temporary loss or impairment of a body
5 part or function.

6 k. Significant bruises or welts.

7 (g) Exposes a child to a controlled substance or
8 alcohol. Exposure to a controlled substance or alcohol is
9 established by:

10 1. Use by the mother of a controlled substance or
11 alcohol during pregnancy when the child, at birth, is
12 demonstrably adversely affected by such usage; or

13 2. Continued chronic and severe use of a controlled
14 substance or alcohol by a parent when the child is
15 demonstrably adversely affected by such usage.

16

17 As used in this paragraph, the term "controlled substance"
18 means prescription drugs not prescribed for the parent or not
19 administered as prescribed and controlled substances as
20 outlined in Schedule I or Schedule II of s. 893.03.

21 Section 3. For the purpose of incorporating the
22 amendments to section 893.03, Florida Statutes, in references
23 thereto, paragraph (b) of subsection (11) of section 440.102,
24 Florida Statutes, is reenacted to read:

25 440.102 Drug-free workplace program requirements.--The
26 following provisions apply to a drug-free workplace program
27 implemented pursuant to law or to rules adopted by the Agency
28 for Health Care Administration:

29 (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR
30 SPECIAL-RISK POSITIONS.--

31

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

14 Section 4. For the purpose of incorporating the
15 amendments to section 893.03, Florida Statutes, in references
16 thereto, subsection (3) of section 458.326, Florida Statutes,
17 is reenacted to read:

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 Section 5. For the purpose of incorporating the
27 amendments to section 893.03, Florida Statutes, in references
28 thereto, subsection (2) of section 465.035, Florida Statutes,
29 is reenacted to read:

30 465.035 Dispensing of medicinal drugs pursuant to
31 facsimile of prescription.--

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

4 Section 6. For the purpose of incorporating the
5 amendments to section 893.03, Florida Statutes, in references
6 thereto, paragraph (a) of subsection (3) of section 766.101,
7 Florida Statutes, 1998 Supplement, is reenacted to read:

8 766.101 Medical review committee, immunity from
9 liability.--

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

21 Section 7. For the purpose of incorporating the
22 amendments to section 893.03, Florida Statutes, in references
23 thereto, section 817.563, Florida Statutes, is reenacted to
24 read:

25 817.563 Controlled substance named or described in s.
26 893.03; sale of substance in lieu thereof.--It is unlawful for
27 any person to agree, consent, or in any manner offer to
28 unlawfully sell to any person a controlled substance named or
29 described in s. 893.03 and then sell to such person any other
30 substance in lieu of such controlled substance. Any person who
31 violates this section with respect to:

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

5 (2) A controlled substance named or described in s.
6 893.03(5) is guilty of a misdemeanor of the second degree,
7 punishable as provided in s. 775.082 or s. 775.083.

8 Section 8. For the purpose of incorporating the
9 amendments to section 893.03, Florida Statutes, in references
10 thereto, section 831.31, Florida Statutes, is reenacted to
11 read:

12 831.31 Counterfeit controlled substance; sale,
13 manufacture, delivery, or possession with intent to sell,
14 manufacture, or deliver.--

15 (1) It is unlawful for any person to sell,
16 manufacture, or deliver, or to possess with intent to sell,
17 manufacture, or deliver, a counterfeit controlled substance.
18 Any person who violates this subsection with respect to:

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

23 (b) A controlled substance named or described in s.
24 893.03(5) is guilty of a misdemeanor of the second degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 (2) For purposes of this section, "counterfeit
27 controlled substance" means:

28 (a) A controlled substance named or described in s.
29 893.03 which, or the container or labeling of which, without
30 authorization bears the trademark, trade name, or other
31 identifying mark, imprint, or number, or any likeness thereof,

1 of a manufacturer other than the person who in fact
2 manufactured the controlled substance; or

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

5 Section 9. For the purpose of incorporating the
6 amendments to section 893.03, Florida Statutes, in references
7 thereto, paragraph (d) of subsection (1) of section 856.015,
8 Florida Statutes, is reenacted to read:

9 856.015 Open house parties.--

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

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

13 Section 10. For the purpose of incorporating the
14 amendments to section 893.03, Florida Statutes, in references
15 thereto, subsection (4) of section 893.02, Florida Statutes,
16 1998 Supplement, is reenacted to read:

17 893.02 Definitions.--The following words and phrases
18 as used in this chapter shall have the following meanings,
19 unless the context otherwise requires:

20 (4) "Controlled substance" means any substance named
21 or described in Schedules I through V of s. 893.03. Laws
22 controlling the manufacture, distribution, preparation,
23 dispensing, or administration of such substances are drug
24 abuse laws.

25 Section 11. For the purpose of incorporating the
26 amendments to section 893.03, Florida Statutes, in references
27 thereto, paragraph (a) of subsection (2) of section 893.0356,
28 Florida Statutes, is reenacted to read:

29 893.0356 Control of new substances; findings of fact;
30 "controlled substance analog" defined.--

31

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

4 1. Is substantially similar to that of a controlled
5 substance listed in Schedule I or Schedule II of s. 893.03;
6 and

7 2. Has a stimulant, depressant, or hallucinogenic
8 effect on the central nervous system or is represented or
9 intended to have a stimulant, depressant, or hallucinogenic
10 effect on the central nervous system substantially similar to
11 or greater than that of a controlled substance listed in
12 Schedule I or Schedule II of s. 893.03.

13 Section 12. For the purpose of incorporating the
14 amendments to section 893.03, Florida Statutes, in references
15 thereto, paragraph (b) of subsection (1) of section 893.08,
16 Florida Statutes, is reenacted to read:

17 893.08 Exceptions.--

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

20 (b) Any compound, mixture, or preparation containing
21 any depressant or stimulant substance described in s.
22 893.03(2)(a) or (c) except any amphetamine drug or
23 sympathomimetic amine drug or compound designated as a
24 Schedule II controlled substance pursuant to this chapter; in
25 s. 893.03(3)(a); or in Schedule IV, if:

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

29 2. Such ingredients are included therein in such
30 combinations, quantity, proportion, or concentration as to
31 vitiate the potential for abuse of the controlled substances

1 which do have a depressant or stimulant effect on the central
2 nervous system.

3 Section 13. For the purpose of incorporating the
4 amendments to section 893.03, Florida Statutes, in references
5 thereto, paragraphs (b), (c), and (d) of subsection (2) of
6 section 893.12, Florida Statutes, 1998 Supplement, are
7 reenacted to read:

8 893.12 Contraband; seizure, forfeiture, sale.--

9 (2)

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

25 (c) All moneys, negotiable instruments, securities,
26 and other things of value furnished or intended to be
27 furnished by any person in exchange for a controlled substance
28 described in s. 893.03(1) or (2) or a listed chemical in
29 violation of any provision of this chapter, all proceeds
30 traceable to such an exchange, and all moneys, negotiable
31 instruments, and securities used or intended to be used to

1 facilitate any violation of any provision of this chapter or
2 which are acquired with proceeds obtained in violation of any
3 provision of this chapter may be seized and forfeited as
4 provided by the Florida Contraband Forfeiture Act, except that
5 no property shall be forfeited under this paragraph to the
6 extent of an interest of an owner or lienholder by reason of
7 any act or omission established by that owner or lienholder to
8 have been committed or omitted without the knowledge or
9 consent of that owner or lienholder.

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

17 Section 14. For the purpose of incorporating the
18 amendments to section 893.03, Florida Statutes, in references
19 thereto, subsection (1), paragraph (a) of subsection (2),
20 subsection (4), paragraphs (a) and (b) of subsection (5), and
21 subsection (7) of section 893.13, Florida Statutes, 1998
22 Supplement, are reenacted to read:

23 893.13 Prohibited acts; penalties.--

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

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

1 felony of the second 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 third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 3. A controlled substance named or described in s.
8 893.03(5) commits a misdemeanor of the first degree,
9 punishable as provided in s. 775.082 or s. 775.083.

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

17 (c) 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 1,000 feet of the real
21 property comprising a child care facility as defined in s.
22 402.302 or a public or private elementary, middle, or
23 secondary school between the hours of 6 a.m. and 12 a.m. Any
24 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 unless the offense was committed within 1,000 feet of
31

1 the real property comprising a child care facility as defined
2 in s. 402.302.

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 (d) 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 or private college, university,
16 or other postsecondary educational institution, or within 200
17 feet of any public park. Any person who violates this
18 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.

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

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

31

1 (e) 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 not authorized by law in, on, or within
5 1,000 feet of a physical place for worship at which a church
6 or religious organization regularly conducts religious
7 services or within 1,000 feet of a convenience business as
8 defined in s. 812.171. Any person who violates this paragraph
9 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 (f) Except as authorized by this chapter, it is
23 unlawful for any person to sell, manufacture, or deliver, or
24 possess with intent to sell, manufacture, or deliver, a
25 controlled substance in, on, or within 200 feet of the real
26 property comprising a public housing facility at any time. For
27 purposes of this section, the term "real property comprising a
28 public housing facility" means real property, as defined in s.
29 421.03(12), of a public corporation created as a housing
30 authority pursuant to part I of chapter 421. Any person who
31 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.

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.

13 (2)

14 (a) Except as authorized by this chapter and chapter
15 499, it is unlawful for any person to purchase, or possess
16 with intent to purchase, a controlled substance. Any person
17 who violates this provision with respect to:

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

22 2. A controlled substance named or described in s.
23 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the
24 third degree, punishable as provided in s. 775.082, s.
25 775.083, or s. 775.084.

26 3. A controlled substance named or described in s.
27 893.03(5) commits a misdemeanor of the first degree,
28 punishable as provided in s. 775.082 or s. 775.083.

29 (4) Except as authorized by this chapter, it is
30 unlawful for any person 18 years of age or older to deliver
31 any controlled substance to a person under the age of 18

1 years, or to use or hire a person under the age of 18 years as
2 an agent or employee in the sale or delivery of such a
3 substance, or to use such person to assist in avoiding
4 detection or apprehension for a violation of this chapter.

5 Any person who violates this provision with respect to:

6 (a) 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 first degree, punishable as provided in s.
9 775.082, s. 775.083, or s. 775.084.

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

14

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

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

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

- 1 1. To distribute or dispense a controlled substance in
2 violation of this chapter.
- 3 2. To refuse or fail to make, keep, or furnish any
4 record, notification, order form, statement, invoice, or
5 information required under this chapter.
- 6 3. To refuse an entry into any premises for any
7 inspection or to refuse to allow any inspection authorized by
8 this chapter.
- 9 4. To distribute a controlled substance named or
10 described in s. 893.03(1) or (2) except pursuant to an order
11 form as required by s. 893.06.
- 12 5. To keep or maintain any store, shop, warehouse,
13 dwelling, building, vehicle, boat, aircraft, or other
14 structure or place which is resorted to by persons using
15 controlled substances in violation of this chapter for the
16 purpose of using these substances, or which is used for
17 keeping or selling them in violation of this chapter.
- 18 6. To use to his or her own personal advantage, or to
19 reveal, any information obtained in enforcement of this
20 chapter except in a prosecution or administrative hearing for
21 a violation of this chapter.
- 22 7. To withhold information from a practitioner from
23 whom the person seeks to obtain a controlled substance or a
24 prescription for a controlled substance that the person has
25 received a controlled substance or a prescription for a
26 controlled substance of like therapeutic use from another
27 practitioner within the last 30 days.
- 28 8. To possess a prescription form which has not been
29 completed and signed by the practitioner whose name appears
30 printed thereon, unless the person is that practitioner, is an
31 agent or employee of that practitioner, is a pharmacist, or is

1 a supplier of prescription forms who is authorized by that
2 practitioner to possess those forms.

3 9. To acquire or obtain, or attempt to acquire or
4 obtain, possession of a controlled substance by
5 misrepresentation, fraud, forgery, deception, or subterfuge.

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

8 11. To furnish false or fraudulent material
9 information in, or omit any material information from, any
10 report or other document required to be kept or filed under
11 this chapter or any record required to be kept by this
12 chapter.

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

19 (c) Any person who violates the provisions of
20 subparagraphs (a)9.-11. commits a felony of the third degree,
21 punishable as provided in s. 775.082, s. 775.083, or s.
22 775.084.

23 Section 15. For the purpose of incorporating the
24 amendments to section 893.03, Florida Statutes, in references
25 thereto, paragraphs (b), (c), (d), (e), and (g) of subsection
26 (3) of section 921.0022, Florida Statutes, 1998 Supplement,
27 are reenacted to read:

28 921.0022 Criminal Punishment Code; offense severity
29 ranking chart.--

30 (3) OFFENSE SEVERITY RANKING CHART

31

1	Florida	Felony	
2	Statute	Degree	Description
3			
4			
5			(b) LEVEL 2
6	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
7			lbs. in weight or 100 cubic feet
8			in volume or any quantity for
9			commercial purposes, or hazardous
10			waste.
11	517.07	3rd	Registration of securities and
12			furnishing of prospectus
13			required.
14	590.28(1)	3rd	Willful, malicious, or
15			intentional burning.
16	784.05(3)	3rd	Storing or leaving a loaded
17			firearm within reach of minor who
18			uses it to inflict injury or
19			death.
20	787.04(1)	3rd	In violation of court order,
21			take, entice, etc., minor beyond
22			state limits.
23	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
24			or more to public communication
25			or any other public service.
26	810.09(2)(e)	3rd	Trespassing on posted commercial
27			horticulture property.
28	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
29			more but less than \$5,000.
30			
31			

1	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
2			more but less than \$300, taken
3			from unenclosed curtilage of
4			dwelling.
5	817.234(1)(a)2.	3rd	False statement in support of
6			insurance claim.
7	817.481(3)(a)	3rd	Obtain credit or purchase with
8			false, expired, counterfeit,
9			etc., credit card, value over
10			\$300.
11	817.52(3)	3rd	Failure to redeliver hired
12			vehicle.
13	817.54	3rd	With intent to defraud, obtain
14			mortgage note, etc., by false
15			representation.
16	817.60(5)	3rd	Dealing in credit cards of
17			another.
18	817.60(6)(a)	3rd	Forgery; purchase goods, services
19			with false card.
20	817.61	3rd	Fraudulent use of credit cards
21			over \$100 or more within 6
22			months.
23	826.04	3rd	Knowingly marries or has sexual
24			intercourse with person to whom
25			related.
26	831.01	3rd	Forgery.
27	831.02	3rd	Uttering forged instrument;
28			utters or publishes alteration
29			with intent to defraud.
30	831.07	3rd	Forging bank bills or promissory
31			note.

1	831.08	3rd	Possession of 10 or more forged
2			notes.
3	831.09	3rd	Uttering forged bills; passes as
4			bank bill or promissory note.
5	832.05(3)(a)	3rd	Cashing or depositing item with
6			intent to defraud.
7	843.08	3rd	Falsely impersonating an officer.
8	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
9			(2)(c), (3), or (4) drugs other
10			than cannabis.
11	893.147(2)	3rd	Manufacture or delivery of drug
12			paraphernalia.
13			(c) LEVEL 3
14	316.1935(2)	3rd	Fleeing or attempting to elude
15			law enforcement officer in marked
16			patrol vehicle with siren and
17			lights activated.
18	319.30(4)	3rd	Possession by junkyard of motor
19			vehicle with identification
20			number plate removed.
21	319.33(1)(a)	3rd	Alter or forge any certificate of
22			title to a motor vehicle or
23			mobile home.
24	319.33(1)(c)	3rd	Procure or pass title on stolen
25			vehicle.
26	319.33(4)	3rd	With intent to defraud, possess,
27			sell, etc., a blank, forged, or
28			unlawfully obtained title or
29			registration.
30			
31			

1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	376.302(5)	3rd	Fraud related to reimbursement
9			for cleanup expenses under the
10			Inland Protection Trust Fund.
11	501.001(2)(b)	2nd	Tampers with a consumer product
12			or the container using materially
13			false/misleading information.
14	697.08	3rd	Equity skimming.
15	790.15(3)	3rd	Person directs another to
16			discharge firearm from a vehicle.
17	796.05(1)	3rd	Live on earnings of a prostitute.
18	806.10(1)	3rd	Maliciously injure, destroy, or
19			interfere with vehicles or
20			equipment used in firefighting.
21	806.10(2)	3rd	Interferes with or assaults
22			firefighter in performance of
23			duty.
24	810.09(2)(c)	3rd	Trespass on property other than
25			structure or conveyance armed
26			with firearm or dangerous weapon.
27	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
28			less than \$10,000.
29	815.04(4)(b)	2nd	Computer offense devised to
30			defraud or obtain property.
31			

1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	828.12(2)	3rd	Tortures any animal with intent
7			to inflict intense pain, serious
8			physical injury, or death.
9	831.29	2nd	Possession of instruments for
10			counterfeiting drivers' licenses
11			or identification cards.
12	838.021(3)(b)	3rd	Threatens unlawful harm to public
13			servant.
14	843.19	3rd	Injure, disable, or kill police
15			dog or horse.
16	870.01(2)	3rd	Riot; inciting or encouraging.
17	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
18			cannabis (or other s.
19			893.03(1)(c), (2)(c), (3), or (4)
20			drugs).
21	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
22			893.03(1)(c), (2)(c), (3), or (4)
23			drugs within 200 feet of
24			university or public park.
25	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
26			893.03(1)(c), (2)(c), (3), or (4)
27			drugs within 200 feet of public
28			housing facility.
29	893.13(6)(a)	3rd	Possession of any controlled
30			substance other than felony
31			possession of cannabis.

1	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
2			controlled substance by fraud,
3			forgery, misrepresentation, etc.
4	893.13(7)(a)11.	3rd	Furnish false or fraudulent
5			material information on any
6			document or record required by
7			chapter 893.
8	918.13(1)(a)	3rd	Alter, destroy, or conceal
9			investigation evidence.
10	944.47		
11	(1)(a)1.-2.	3rd	Introduce contraband to
12			correctional facility.
13	944.47(1)(c)	2nd	Possess contraband while upon the
14			grounds of a correctional
15			institution.
16	985.3141	3rd	Escapes from a juvenile facility
17			(secure detention or residential
18			commitment facility).
19			(d) LEVEL 4
20	316.1935(3)	2nd	Driving at high speed or with
21			wanton disregard for safety while
22			fleeing or attempting to elude
23			law enforcement officer who is in
24			a marked patrol vehicle with
25			siren and lights activated.
26	784.07(2)(b)	3rd	Battery of law enforcement
27			officer, firefighter, intake
28			officer, etc.
29	784.075	3rd	Battery on detention or
30			commitment facility staff.
31			

1	784.08(2)(c)	3rd	Battery on a person 65 years of
2			age or older.
3	784.081(3)	3rd	Battery on specified official or
4			employee.
5	784.082(3)	3rd	Battery by detained person on
6			visitor or other detainee.
7	784.083(3)	3rd	Battery on code inspector.
8	787.03(1)	3rd	Interference with custody;
9			wrongly takes child from
10			appointed guardian.
11	787.04(2)	3rd	Take, entice, or remove child
12			beyond state limits with criminal
13			intent pending custody
14			proceedings.
15	787.04(3)	3rd	Carrying child beyond state lines
16			with criminal intent to avoid
17			producing child at custody
18			hearing or delivering to
19			designated person.
20	790.115(1)	3rd	Exhibiting firearm or weapon
21			within 1,000 feet of a school.
22	790.115(2)(b)	3rd	Possessing electric weapon or
23			device, destructive device, or
24			other weapon on school property.
25	790.115(2)(c)	3rd	Possessing firearm on school
26			property.
27	810.02(4)(a)	3rd	Burglary, or attempted burglary,
28			of an unoccupied structure;
29			unarmed; no assault or battery.
30			
31			

1	810.02(4)(b)	3rd	Burglary, or attempted burglary,
2			of an unoccupied conveyance;
3			unarmed; no assault or battery.
4	810.06	3rd	Burglary; possession of tools.
5	810.08(2)(c)	3rd	Trespass on property, armed with
6			firearm or dangerous weapon.
7	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
8			or more but less than \$20,000.
9	812.014		
10	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
11			firearm, motor vehicle,
12			livestock, etc.
13	817.563(1)	3rd	Sell or deliver substance other
14			than controlled substance agreed
15			upon, excluding s. 893.03(5)
16			drugs.
17	828.125(1)	2nd	Kill, maim, or cause great bodily
18			harm or permanent breeding
19			disability to any registered
20			horse or cattle.
21	837.02(1)	3rd	Perjury in official proceedings.
22	837.021(1)	3rd	Make contradictory statements in
23			official proceedings.
24	843.025	3rd	Deprive law enforcement,
25			correctional, or correctional
26			probation officer of means of
27			protection or communication.
28	843.15(1)(a)	3rd	Failure to appear while on bail
29			for felony (bond estreature or
30			bond jumping).
31			

1	874.05(1)	3rd	Encouraging or recruiting another
2			to join a criminal street gang.
3	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
4			893.03(1)(a), (b), or (d), or
5			(2)(a) or (b) drugs).
6	914.14(2)	3rd	Witnesses accepting bribes.
7	914.22(1)	3rd	Force, threaten, etc., witness,
8			victim, or informant.
9	914.23(2)	3rd	Retaliation against a witness,
10			victim, or informant, no bodily
11			injury.
12	918.12	3rd	Tampering with jurors.
13			(e) LEVEL 5
14	316.027(1)(a)	3rd	Accidents involving personal
15			injuries, failure to stop;
16			leaving scene.
17	316.1935(4)	2nd	Aggravated fleeing or eluding.
18	322.34(3)	3rd	Careless operation of motor
19			vehicle with suspended license,
20			resulting in death or serious
21			bodily injury.
22	327.30(5)	3rd	Vessel accidents involving
23			personal injury; leaving scene.
24	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
25			knowing HIV positive.
26	790.01(2)	3rd	Carrying a concealed firearm.
27	790.162	2nd	Threat to throw or discharge
28			destructive device.
29	790.163	2nd	False report of deadly explosive.
30	790.165(2)	3rd	Manufacture, sell, possess, or
31			deliver hoax bomb.

1	790.221(1)	2nd	Possession of short-barreled
2			shotgun or machine gun.
3	790.23	2nd	Felons in possession of firearms
4			or electronic weapons or devices.
5	806.111(1)	3rd	Possess, manufacture, or dispense
6			fire bomb with intent to damage
7			any structure or property.
8	812.019(1)	2nd	Stolen property; dealing in or
9			trafficking in.
10	812.16(2)	3rd	Owning, operating, or conducting
11			a chop shop.
12	817.034(4)(a)2.	2nd	Communications fraud, value
13			\$20,000 to \$50,000.
14	825.1025(4)	3rd	Lewd or lascivious exhibition in
15			the presence of an elderly person
16			or disabled adult.
17	827.071(4)	2nd	Possess with intent to promote
18			any photographic material, motion
19			picture, etc., which includes
20			sexual conduct by a child.
21	843.01	3rd	Resist officer with violence to
22			person; resist arrest with
23			violence.
24	874.05(2)	2nd	Encouraging or recruiting another
25			to join a criminal street gang;
26			second or subsequent offense.
27	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
28			cocaine (or other s.
29			893.03(1)(a), (1)(b), (1)(d),
30			(2)(a), or (2)(b) drugs).
31			

1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c), (3), or (4)
4			drugs) within 1,000 feet of a
5			child care facility or school.
6	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
7			cocaine (or other s.
8			893.03(1)(a), (1)(b), (1)(d),
9			(2)(a), or (2)(b) drugs) within
10			200 feet of university or public
11			park.
12	893.13(1)(e)	2nd	Sell, manufacture, or deliver
13			cannabis or other drug prohibited
14			under s. 893.03(1)(c), (2)(c),
15			(3), or (4) within 1,000 feet of
16			property used for religious
17			services or a specified business
18			site.
19	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
20			cocaine (or other s.
21			893.03(1)(a), (1)(b), (1)(d), or
22			(2)(a), or (2)(b) drugs) within
23			200 feet of public housing
24			facility.
25	893.13(4)(b)	2nd	Deliver to minor cannabis (or
26			other s. 893.03(1)(c), (2)(c),
27			(3), or (4) drugs).
28			(g) LEVEL 7
29	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
30			injury.
31			

1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	409.920(2)	3rd	Medicaid provider fraud.
4	494.0018(2)	1st	Conviction of any violation of
5			ss. 494.001-494.0077 in which the
6			total money and property
7			unlawfully obtained exceeded
8			\$50,000 and there were five or
9			more victims.
10	782.051(3)	2nd	Attempted felony murder of a
11			person by a person other than the
12			perpetrator or the perpetrator of
13			an attempted felony.
14	782.07(1)	2nd	Killing of a human being by the
15			act, procurement, or culpable
16			negligence of another
17			(manslaughter).
18	782.071	3rd	Killing of human being or viable
19			fetus by the operation of a motor
20			vehicle in a reckless manner
21			(vehicular homicide).
22	782.072	3rd	Killing of a human being by the
23			operation of a vessel in a
24			reckless manner (vessel
25			homicide).
26	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
27			causing great bodily harm or
28			disfigurement.
29	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
30			weapon.
31			

1	784.045(1)(b)	2nd	Aggravated battery; perpetrator
2			aware victim pregnant.
3	784.048(4)	3rd	Aggravated stalking; violation of
4			injunction or court order.
5	784.07(2)(d)	1st	Aggravated battery on law
6			enforcement officer.
7	784.08(2)(a)	1st	Aggravated battery on a person 65
8			years of age or older.
9	784.081(1)	1st	Aggravated battery on specified
10			official or employee.
11	784.082(1)	1st	Aggravated battery by detained
12			person on visitor or other
13			detainee.
14	784.083(1)	1st	Aggravated battery on code
15			inspector.
16	790.07(4)	1st	Specified weapons violation
17			subsequent to previous conviction
18			of s. 790.07(1) or (2).
19	790.16(1)	1st	Discharge of a machine gun under
20			specified circumstances.
21	796.03	2nd	Procuring any person under 16
22			years for prostitution.
23	800.04	2nd	Handle, fondle, or assault child
24			under 16 years in lewd,
25			lascivious, or indecent manner.
26	806.01(2)	2nd	Maliciously damage structure by
27			fire or explosive.
28	810.02(3)(a)	2nd	Burglary of occupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
31			unarmed; no assault or battery.

1	810.02(3)(d)	2nd	Burglary of occupied conveyance;
2			unarmed; no assault or battery.
3	812.014(2)(a)	1st	Property stolen, valued at
4			\$100,000 or more; property stolen
5			while causing other property
6			damage; 1st degree grand theft.
7	812.019(2)	1st	Stolen property; initiates,
8			organizes, plans, etc., the theft
9			of property and traffics in
10			stolen property.
11	812.133(2)(b)	1st	Carjacking; no firearm, deadly
12			weapon, or other weapon.
13	825.102(3)(b)	2nd	Neglecting an elderly person or
14			disabled adult causing great
15			bodily harm, disability, or
16			disfigurement.
17	825.1025(2)	2nd	Lewd or lascivious battery upon
18			an elderly person or disabled
19			adult.
20	825.103(2)(b)	2nd	Exploiting an elderly person or
21			disabled adult and property is
22			valued at \$20,000 or more, but
23			less than \$100,000.
24	827.03(3)(b)	2nd	Neglect of a child causing great
25			bodily harm, disability, or
26			disfigurement.
27	827.04(4)	3rd	Impregnation of a child under 16
28			years of age by person 21 years
29			of age or older.
30			
31			

1	837.05(2)	3rd	Giving false information about
2			alleged capital felony to a law
3			enforcement officer.
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 drug prohibited
7			under s. 893.03(1)(a), (1)(b),
8			(1)(d), (2)(a), or (2)(b)) within
9			1,000 feet of a child care
10			facility or school.
11	893.13(1)(e)	1st	Sell, manufacture, or deliver
12			cocaine or other drug prohibited
13			under s. 893.03(1)(a), (1)(b),
14			(1)(d), (2)(a), or (2)(b), within
15			1,000 feet of property used for
16			religious services or a specified
17			business site.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), or (2)(b) drugs).
21	893.135(1)(a)1.	1st	Trafficking in cannabis, more
22			than 50 lbs., less than 2,000
23			lbs.
24	893.135		
25	(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135		
28	(1)(c)1.a.	1st	Trafficking in illegal drugs,
29			more than 4 grams, less than 14
30			grams.
31			

1 893.135
2 (1)(d)1. 1st Trafficking in phencyclidine,
3 more than 28 grams, less than 200
4 grams.
5 893.135(1)(e)1. 1st Trafficking in methaqualone, more
6 than 200 grams, less than 5
7 kilograms.
8 893.135(1)(f)1. 1st Trafficking in amphetamine, more
9 than 14 grams, less than 28
10 grams.
11 893.135
12 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
13 grams or more, less than 14
14 grams.

15 Section 16. Subsections (5) and (7) of section
16 893.035, Florida Statutes, are amended to read:

17 893.035 Control of new substances; findings of fact;
18 delegation of authority to Attorney General to control
19 substances by rule.--

20 (5) Before initiating proceedings under subsection
21 (2), the Attorney General shall request from the Department of
22 Health ~~Business and Professional Regulation~~ and the Department
23 of Law Enforcement a medical and scientific evaluation of the
24 substance under consideration and a recommendation as to the
25 appropriate classification, if any, of such substance as a
26 controlled substance. In responding to this request, the
27 Department of Health ~~Business and Professional Regulation~~ and
28 the Department of Law Enforcement shall consider the factors
29 listed in subsection (4). The Department of Health ~~Business~~
30 ~~and Professional Regulation~~ and the Department of Law
31 Enforcement shall respond to this request promptly and in

1 writing; however, their response is ~~shall~~ not ~~be~~ subject to
2 ~~the provisions of~~ chapter 120. If both the Department of
3 Health ~~Business and Professional Regulation~~ and the Department
4 of Law Enforcement recommend that a substance not be
5 controlled, the Attorney General shall not control that
6 substance. If the Attorney General determines, based on the
7 evaluations and recommendations of the Department of Health
8 ~~Business and Professional Regulation~~ and the Department of Law
9 Enforcement and all other available evidence, that there is
10 substantial evidence of potential for abuse, he or she shall
11 initiate proceedings under paragraph (2)(a) with respect to
12 that substance.

13 (7)(a) If the Attorney General finds that the
14 scheduling of a substance in Schedule I of s. 893.03 on a
15 temporary basis is necessary to avoid an imminent hazard to
16 the public safety, he or she may by rule and without regard to
17 the requirements of subsection (5) relating to the Department
18 of Health ~~Business and Professional Regulation~~ and the
19 Department of Law Enforcement schedule such substance in
20 Schedule I if the substance is not listed in any other
21 schedule of s. 893.03. The Attorney General shall be required
22 to consider, with respect to his or her finding of imminent
23 hazard to the public safety, only those factors set forth in
24 paragraphs (3)(a) and (4)(d), (e), and (f), including actual
25 abuse, diversion from legitimate channels, and clandestine
26 importation, manufacture, or distribution.

27 (b) The Attorney General may use emergency rulemaking
28 provisions under s. 120.54(4) in scheduling substances under
29 this subsection. Notwithstanding the provisions of s.
30 120.54(4)(c), any rule adopted under this subsection shall not
31 expire except as provided in subsection (9).

