

By Senator Brown-Waite

10-315-01

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.03, F.S.; adding certain
4 mixtures containing hydrocodone to the
5 substances listed under Schedule III as a
6 controlled substance; amending s. 893.135,
7 F.S.; providing penalties for trafficking in
8 certain mixtures containing hydrocodone;
9 reenacting s. 921.0022(3)(b), (c), and (e),
10 F.S., relating to the offense severity ranking
11 chart in the Criminal Punishment Code, to
12 incorporate the amendment in s. 893.03, F.S.,
13 in references thereto; providing an effective
14 date.

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

17
18 Section 1. Paragraph (c) of subsection (3) of section
19 893.03, Florida Statutes, is amended to read:

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

1 (3) SCHEDULE III.--A substance in Schedule III has a
2 potential for abuse less than the substances contained in
3 Schedules I and II and has a currently accepted medical use in
4 treatment in the United States, and abuse of the substance may
5 lead to moderate or low physical dependence or high
6 psychological dependence or, in the case of anabolic steroids,
7 may lead to physical damage. The following substances are
8 controlled in Schedule III:

9 (c) Unless specifically excepted or unless listed in
10 another schedule, any material, compound, mixture, or
11 preparation containing limited quantities of any of the
12 following controlled substances or any salts thereof:

13 1. Not more than 1.8 grams of codeine per 100
14 milliliters or not more than 90 milligrams per dosage unit,
15 with an equal or greater quantity of an isoquinoline alkaloid
16 of opium.

17 2. Not more than 1.8 grams of codeine per 100
18 milliliters or not more than 90 milligrams per dosage unit,
19 with recognized therapeutic amounts of one or more active
20 ingredients which are not controlled substances.

21 3. Not more than 300 milligrams of hydrocodone per 100
22 milliliters or not more than 15 milligrams per dosage unit,
23 with a fourfold or greater quantity of an isoquinoline
24 alkaloid of opium.

25 4. Not more than 300 milligrams of hydrocodone per 100
26 milliliters or not more than 15 milligrams per dosage unit,
27 with recognized therapeutic amounts of one or more active
28 ingredients that are not controlled substances.

29 ~~5.3.~~ Not more than 1.8 grams of dihydrocodeine per 100
30 milliliters or not more than 90 milligrams per dosage unit,
31

1 with recognized therapeutic amounts of one or more active
2 ingredients which are not controlled substances.

3 ~~6.4.~~ Not more than 300 milligrams of ethylmorphine per
4 100 milliliters or not more than 15 milligrams per dosage
5 unit, with one or more active, nonnarcotic ingredients in
6 recognized therapeutic amounts.

7 ~~7.5.~~ Not more than 50 milligrams of morphine per 100
8 milliliters or per 100 grams, with recognized therapeutic
9 amounts of one or more active ingredients which are not
10 controlled substances.

11 Section 2. Paragraph (c) of subsection (1) of section
12 893.135, Florida Statutes, is amended to read:

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

16 (1) Except as authorized in this chapter or in chapter
17 499 and notwithstanding the provisions of s. 893.13:

18 (c)1. Any person who knowingly sells, purchases,
19 manufactures, delivers, or brings into this state, or who is
20 knowingly in actual or constructive possession of, 4 grams or
21 more of any morphine, opium, oxycodone, hydrocodone,
22 hydromorphone, or any salt, derivative, isomer, or salt of an
23 isomer thereof, including heroin, as described in s.

24 893.03(1)(b), ~~or~~ (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or
25 more of any mixture containing any such substance, but less
26 than 30 kilograms of such substance or mixture, commits a
27 felony of the first degree, which felony shall be known as
28 "trafficking in illegal drugs," punishable as provided in s.
29 775.082, s. 775.083, or s. 775.084. If the quantity involved:

30 a. Is 4 grams or more, but less than 14 grams, such
31 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 3 years, and the defendant shall be ordered to
2 pay a fine of \$50,000.

3 b. Is 14 grams or more, but less than 28 grams, such
4 person shall be sentenced to a mandatory minimum term of
5 imprisonment of 15 years, and the defendant shall be ordered
6 to pay a fine of \$100,000.

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

10 2. Any person who knowingly sells, purchases,
11 manufactures, delivers, or brings into this state, or who is
12 knowingly in actual or constructive possession of, 30
13 kilograms or more of any morphine, opium, oxycodone,
14 hydrocodone, hydromorphone, or any salt, derivative, isomer,
15 or salt of an isomer thereof, including heroin, as described
16 in s. 893.03(1)(b), or (2)(a), (3)(c)3., or (3)(c)4., or 30
17 kilograms or more of any mixture containing any such
18 substance, commits the first degree felony of trafficking in
19 illegal drugs. A person who has been convicted of the first
20 degree felony of trafficking in illegal drugs under this
21 subparagraph shall be punished by life imprisonment and is
22 ineligible for any form of discretionary early release except
23 pardon or executive clemency or conditional medical release
24 under s. 947.149. However, if the court determines that, in
25 addition to committing any act specified in this paragraph:

26 a. The person intentionally killed an individual or
27 counseled, commanded, induced, procured, or caused the
28 intentional killing of an individual and such killing was the
29 result; or

30 b. The person's conduct in committing that act led to
31 a natural, though not inevitable, lethal result,

1
2 such person commits the capital felony of trafficking in
3 illegal drugs, punishable as provided in ss. 775.082 and
4 921.142. Any person sentenced for a capital felony under this
5 paragraph shall also be sentenced to pay the maximum fine
6 provided under subparagraph 1.

7 3. Any person who knowingly brings into this state 60
8 kilograms or more of any morphine, opium, oxycodone,
9 hydrocodone, hydromorphone, or any salt, derivative, isomer,
10 or salt of an isomer thereof, including heroin, as described
11 in s. 893.03(1)(b), ~~or~~ (2)(a), (3)(c)3., or (3)(c)4., or 60
12 kilograms or more of any mixture containing any such
13 substance, and who knows that the probable result of such
14 importation would be the death of any person, commits capital
15 importation of illegal drugs, a capital felony punishable as
16 provided in ss. 775.082 and 921.142. Any person sentenced for
17 a capital felony under this paragraph shall also be sentenced
18 to pay the maximum fine provided under subparagraph 1.

19 Section 3. For the purpose of incorporating the
20 amendment to section 893.03, Florida Statutes, in references
21 thereto, paragraphs (b), (c), and (e) of subsection (3) of
22 section 921.0022, Florida Statutes, are reenacted to read:

23 921.0022 Criminal Punishment Code; offense severity
24 ranking chart.--

25 (3) OFFENSE SEVERITY RANKING CHART

26
27 Florida Felony
28 Statute Degree Description

31 (b) LEVEL 2

1	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
2			lbs. in weight or 100 cubic feet
3			in volume or any quantity for
4			commercial purposes, or hazardous
5			waste.
6	517.07	3rd	Registration of securities and
7			furnishing of prospectus
8			required.
9	590.28(1)	3rd	Willful, malicious, or
10			intentional burning.
11	784.05(3)	3rd	Storing or leaving a loaded
12			firearm within reach of minor who
13			uses it to inflict injury or
14			death.
15	787.04(1)	3rd	In violation of court order,
16			take, entice, etc., minor beyond
17			state limits.
18	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
19			or more to public communication
20			or any other public service.
21	810.09(2)(e)	3rd	Trespassing on posted commercial
22			horticulture property.
23	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
24			more but less than \$5,000.
25	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
26			more but less than \$300, taken
27			from unenclosed curtilage of
28			dwelling.
29	817.234(1)(a)2.	3rd	False statement in support of
30			insurance claim.
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1	817.481(3)(a)	3rd	Obtain credit or purchase with
2			false, expired, counterfeit,
3			etc., credit card, value over
4			\$300.
5	817.52(3)	3rd	Failure to redeliver hired
6			vehicle.
7	817.54	3rd	With intent to defraud, obtain
8			mortgage note, etc., by false
9			representation.
10	817.60(5)	3rd	Dealing in credit cards of
11			another.
12	817.60(6)(a)	3rd	Forgery; purchase goods, services
13			with false card.
14	817.61	3rd	Fraudulent use of credit cards
15			over \$100 or more within 6
16			months.
17	826.04	3rd	Knowingly marries or has sexual
18			intercourse with person to whom
19			related.
20	831.01	3rd	Forgery.
21	831.02	3rd	Uttering forged instrument;
22			utters or publishes alteration
23			with intent to defraud.
24	831.07	3rd	Forging bank bills or promissory
25			note.
26	831.08	3rd	Possession of 10 or more forged
27			notes.
28	831.09	3rd	Uttering forged bills; passes as
29			bank bill or promissory note.
30	832.05(3)(a)	3rd	Cashing or depositing item with
31			intent to defraud.

1	843.08	3rd	Falsely impersonating an officer.
2	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
3			(2)(c)1., (2)(c)2., (2)(c)3.,
4			(2)(c)5., (2)(c)6., (2)(c)7.,
5			(2)(c)8., (2)(c)9., (3), or (4)
6			drugs other than cannabis.
7	893.147(2)	3rd	Manufacture or delivery of drug
8			paraphernalia.
9			(c) LEVEL 3
10	316.1935(2)	3rd	Fleeing or attempting to elude
11			law enforcement officer in marked
12			patrol vehicle with siren and
13			lights activated.
14	319.30(4)	3rd	Possession by junkyard of motor
15			vehicle with identification
16			number plate removed.
17	319.33(1)(a)	3rd	Alter or forge any certificate of
18			title to a motor vehicle or
19			mobile home.
20	319.33(1)(c)	3rd	Procure or pass title on stolen
21			vehicle.
22	319.33(4)	3rd	With intent to defraud, possess,
23			sell, etc., a blank, forged, or
24			unlawfully obtained title or
25			registration.
26	328.05(2)	3rd	Possess, sell, or counterfeit
27			fictitious, stolen, or fraudulent
28			titles or bills of sale of
29			vessels.
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1	328.07(4)	3rd	Manufacture, exchange, or possess
2			vessel with counterfeit or wrong
3			ID number.
4	376.302(5)	3rd	Fraud related to reimbursement
5			for cleanup expenses under the
6			Inland Protection Trust Fund.
7	501.001(2)(b)	2nd	Tampers with a consumer product
8			or the container using materially
9			false/misleading information.
10	697.08	3rd	Equity skimming.
11	790.15(3)	3rd	Person directs another to
12			discharge firearm from a vehicle.
13	796.05(1)	3rd	Live on earnings of a prostitute.
14	806.10(1)	3rd	Maliciously injure, destroy, or
15			interfere with vehicles or
16			equipment used in firefighting.
17	806.10(2)	3rd	Interferes with or assaults
18			firefighter in performance of
19			duty.
20	810.09(2)(c)	3rd	Trespass on property other than
21			structure or conveyance armed
22			with firearm or dangerous weapon.
23	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
24			less than \$10,000.
25	815.04(4)(b)	2nd	Computer offense devised to
26			defraud or obtain property.
27	817.034(4)(a)3.	3rd	Engages in scheme to defraud
28			(Florida Communications Fraud
29			Act), property valued at less
30			than \$20,000.
31	817.233	3rd	Burning to defraud insurer.

1	828.12(2)	3rd	Tortures any animal with intent
2			to inflict intense pain, serious
3			physical injury, or death.
4	831.29	2nd	Possession of instruments for
5			counterfeiting drivers' licenses
6			or identification cards.
7	838.021(3)(b)	3rd	Threatens unlawful harm to public
8			servant.
9	843.19	3rd	Injure, disable, or kill police
10			dog or horse.
11	870.01(2)	3rd	Riot; inciting or encouraging.
12	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
13			cannabis (or other s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs).
18	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
19			893.03(1)(c), (2)(c)1., (2)(c)2.,
20			(2)(c)3., (2)(c)5., (2)(c)6.,
21			(2)(c)7., (2)(c)8., (2)(c)9.,
22			(3), or (4) drugs within 200 feet
23			of university or public park.
24	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
25			893.03(1)(c), (2)(c)1., (2)(c)2.,
26			(2)(c)3., (2)(c)5., (2)(c)6.,
27			(2)(c)7., (2)(c)8., (2)(c)9.,
28			(3), or (4) drugs within 200 feet
29			of public housing facility.
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1	893.13(6)(a)	3rd	Possession of any controlled
2			substance other than felony
3			possession of cannabis.
4	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
5			controlled substance by fraud,
6			forgery, misrepresentation, etc.
7	893.13(7)(a)11.	3rd	Furnish false or fraudulent
8			material information on any
9			document or record required by
10			chapter 893.
11	918.13(1)(a)	3rd	Alter, destroy, or conceal
12			investigation evidence.
13	944.47		
14	(1)(a)1.-2.	3rd	Introduce contraband to
15			correctional facility.
16	944.47(1)(c)	2nd	Possess contraband while upon the
17			grounds of a correctional
18			institution.
19	985.3141	3rd	Escapes from a juvenile facility
20			(secure detention or residential
21			commitment facility).
22			(e) LEVEL 5
23	316.027(1)(a)	3rd	Accidents involving personal
24			injuries, failure to stop;
25			leaving scene.
26	316.1935(4)	2nd	Aggravated fleeing or eluding.
27	322.34(6)	3rd	Careless operation of motor
28			vehicle with suspended license,
29			resulting in death or serious
30			bodily injury.
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1	327.30(5)	3rd	Vessel accidents involving
2			personal injury; leaving scene.
3	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
4			knowing HIV positive.
5	790.01(2)	3rd	Carrying a concealed firearm.
6	790.162	2nd	Threat to throw or discharge
7			destructive device.
8	790.163	2nd	False report of deadly explosive.
9	790.165(2)	3rd	Manufacture, sell, possess, or
10			deliver hoax bomb.
11	790.221(1)	2nd	Possession of short-barreled
12			shotgun or machine gun.
13	790.23	2nd	Felons in possession of firearms
14			or electronic weapons or devices.
15	800.04(6)(c)	3rd	Lewd or lascivious conduct;
16			offender less than 18 years.
17	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
18			offender 18 years or older.
19	806.111(1)	3rd	Possess, manufacture, or dispense
20			fire bomb with intent to damage
21			any structure or property.
22	812.019(1)	2nd	Stolen property; dealing in or
23			trafficking in.
24	812.131(2)(b)	3rd	Robbery by sudden snatching.
25	812.16(2)	3rd	Owning, operating, or conducting
26			a chop shop.
27	817.034(4)(a)2.	2nd	Communications fraud, value
28			\$20,000 to \$50,000.
29	825.1025(4)	3rd	Lewd or lascivious exhibition in
30			the presence of an elderly person
31			or disabled adult.

1	827.071(4)	2nd	Possess with intent to promote
2			any photographic material, motion
3			picture, etc., which includes
4			sexual conduct by a child.
5	843.01	3rd	Resist officer with violence to
6			person; resist arrest with
7			violence.
8	874.05(2)	2nd	Encouraging or recruiting another
9			to join a criminal street gang;
10			second or subsequent offense.
11	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
12			cocaine (or other s.
13			893.03(1)(a), (1)(b), (1)(d),
14			(2)(a), (2)(b), or (2)(c)4.
15			drugs).
16	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
17			cannabis (or other s.
18			893.03(1)(c), (2)(c)1., (2)(c)2.,
19			(2)(c)3., (2)(c)5., (2)(c)6.,
20			(2)(c)7., (2)(c)8., (2)(c)9.,
21			(3), or (4) drugs) within 1,000
22			feet of a child care facility or
23			school.
24	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
25			cocaine (or other s.
26			893.03(1)(a), (1)(b), (1)(d),
27			(2)(a), (2)(b), or (2)(c)4.
28			drugs) within 200 feet of
29			university or public park.
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31			

1 893.13(1)(e)2. 2nd Sell, manufacture, or deliver
2 cannabis or other drug prohibited
3 under s. 893.03(1)(c), (2)(c)1.,
4 (2)(c)2., (2)(c)3., (2)(c)5.,
5 (2)(c)6., (2)(c)7., (2)(c)8.,
6 (2)(c)9., (3), or (4) within
7 1,000 feet of property used for
8 religious services or a specified
9 business site.
10 893.13(1)(f)1. 1st Sell, manufacture, or deliver
11 cocaine (or other s.
12 893.03(1)(a), (1)(b), (1)(d), or
13 (2)(a), (2)(b), or (2)(c)4.
14 drugs) within 200 feet of public
15 housing facility.
16 893.13(4)(b) 2nd Deliver to minor cannabis (or
17 other s. 893.03(1)(c), (2)(c)1.,
18 (2)(c)2., (2)(c)3., (2)(c)5.,
19 (2)(c)6., (2)(c)7., (2)(c)8.,
20 (2)(c)9., (3), or (4) drugs).

21 Section 4. This act shall take effect July 1, 2001.

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23
24 SENATE SUMMARY

25 Adds certain mixtures containing hydrocodone to the
26 controlled substances listed under Schedule III.
27 Prohibits the sale, purchase, manufacture, or delivery of
28 certain mixtures containing hydrocodone. (See bill for
29 details.)
30
31