

By Senator Posey

15-1198-02

See CS/HB 213

1                                   A bill to be entitled  
2           An act relating to controlled substances;  
3           amending s. 893.13, F.S.; prohibiting the sale,  
4           manufacture, or delivery of controlled  
5           substances, or possession of controlled  
6           substances with intent to sell, manufacture, or  
7           deliver, within 1,000 feet of any state,  
8           county, or municipal park or publicly owned  
9           recreational facility; providing penalties;  
10          amending s. 921.0022, F.S.; ranking such  
11          offenses on the offense severity ranking chart  
12          of the Criminal Punishment Code; providing an  
13          effective date.

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

17           Section 1. Paragraphs (c) and (d) of subsection (1) of  
18 section 893.13, Florida Statutes, are amended to read:

19           893.13 Prohibited acts; penalties.--

20           (1)

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

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1           1. A controlled substance named or described in s.  
2 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
3 commits a felony of the first degree, punishable as provided  
4 in s. 775.082, s. 775.083, or s. 775.084. The defendant must  
5 be sentenced to a minimum term of imprisonment of 3 calendar  
6 years unless the offense was committed within 1,000 feet of  
7 the real property comprising a child care facility as defined  
8 in s. 402.302.

9           2. A controlled substance named or described in s.  
10 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,  
11 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a  
12 felony of the second degree, punishable as provided in s.  
13 775.082, s. 775.083, or s. 775.084.

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

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

26           (d) Except as authorized by this chapter, it is  
27 unlawful for any person to sell, manufacture, or deliver, or  
28 possess with intent to sell, manufacture, or deliver, a  
29 controlled substance in, on, or within 200 feet of the real  
30 property comprising a public or private college, university,  
31 or other postsecondary educational institution, ~~or within 200~~

1 ~~feet of any public park.~~ Any person who violates this  
2 paragraph with respect to:  
3       1. A controlled substance named or described in s.  
4 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
5 commits a felony of the first degree, punishable as provided  
6 in s. 775.082, s. 775.083, or s. 775.084.  
7       2. A controlled substance named or described in s.  
8 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,  
9 (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a  
10 felony of the second degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084.  
12       3. Any other controlled substance, except as lawfully  
13 sold, manufactured, or delivered, must be sentenced to pay a  
14 \$500 fine and to serve 100 hours of public service in addition  
15 to any other penalty prescribed by law.  
16       (9) Notwithstanding any provision of the sentencing  
17 guidelines or the Criminal Punishment Code to the contrary, on  
18 or after October 1, 1993, any defendant who:  
19       (a) Violates subparagraph (1)(a)1., subparagraph  
20 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or  
21 paragraph (5)(a); and  
22       (b) Has not previously been convicted, regardless of  
23 whether adjudication was withheld, of any felony, other than a  
24 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,  
25 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph  
26 (5)(a),  
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28 may be required by the court to successfully complete a term  
29 of probation pursuant to the terms and conditions set forth in  
30 s. 948.034(1), in lieu of serving a term of imprisonment.  
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1 Section 2. Paragraphs (c), (e), and (g) of subsection  
2 (3) of section 921.0022, Florida Statutes, are amended to  
3 read:

4 921.0022 Criminal Punishment Code; offense severity  
5 ranking chart.--

6 (3) OFFENSE SEVERITY RANKING CHART

7	8 Florida	9 Statute	10 Felony	11 Degree	12 Description
13					(c) LEVEL 3
14		316.1935(2)		3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
15		319.30(4)		3rd	Possession by junkyard of motor vehicle with identification number plate removed.
16		319.33(1)(a)		3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
17		319.33(1)(c)		3rd	Procure or pass title on stolen vehicle.
18		319.33(4)		3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
19		328.05(2)		3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

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	817.234(8)&(9)	3rd	Unlawful solicitation of persons
2			involved in motor vehicle
3			accidents.
4	817.234(11)(a)	3rd	Insurance fraud; property value
5			less than \$20,000.
6	817.505(4)	3rd	Patient brokering.
7	828.12(2)	3rd	Tortures any animal with intent
8			to inflict intense pain, serious
9			physical injury, or death.
10	831.28(2)(a)	3rd	Counterfeiting a payment
11			instrument with intent to defraud
12			or possessing a counterfeit
13			payment instrument.
14	831.29	2nd	Possession of instruments for
15			counterfeiting drivers' licenses
16			or identification cards.
17	838.021(3)(b)	3rd	Threatens unlawful harm to public
18			servant.
19	843.19	3rd	Injure, disable, or kill police
20			dog or horse.
21	870.01(2)	3rd	Riot; inciting or encouraging.
22	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
23			cannabis (or other s.
24			893.03(1)(c), (2)(c)1., (2)(c)2.,
25			(2)(c)3., (2)(c)5., (2)(c)6.,
26			(2)(c)7., (2)(c)8., (2)(c)9.,
27			(3), or (4) drugs).
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1	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 200 feet
6			of university <del>or public park</del> .
7	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs within 200 feet
12			of public housing facility.
13	893.13(6)(a)	3rd	Possession of any controlled
14			substance other than felony
15			possession of cannabis.
16	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
17			controlled substance by fraud,
18			forgery, misrepresentation, etc.
19	893.13(7)(a)11.	3rd	Furnish false or fraudulent
20			material information on any
21			document or record required by
22			chapter 893.
23	918.13(1)(a)	3rd	Alter, destroy, or conceal
24			investigation evidence.
25	944.47		
26	(1)(a)1.-2.	3rd	Introduce contraband to
27			correctional facility.
28	944.47(1)(c)	2nd	Possess contraband while upon the
29			grounds of a correctional
30			institution.
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1	985.3141	3rd	Escapes from a juvenile facility
2			(secure detention or residential
3			commitment facility).
4			(e) LEVEL 5
5	316.027(1)(a)	3rd	Accidents involving personal
6			injuries, failure to stop;
7			leaving scene.
8	316.1935(4)	2nd	Aggravated fleeing or eluding.
9	322.34(6)	3rd	Careless operation of motor
10			vehicle with suspended license,
11			resulting in death or serious
12			bodily injury.
13	327.30(5)	3rd	Vessel accidents involving
14			personal injury; leaving scene.
15	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
16			knowing HIV positive.
17	790.01(2)	3rd	Carrying a concealed firearm.
18	790.162	2nd	Threat to throw or discharge
19			destructive device.
20	790.163	2nd	False report of deadly explosive.
21	790.165(2)	3rd	Manufacture, sell, possess, or
22			deliver hoax bomb.
23	790.221(1)	2nd	Possession of short-barreled
24			shotgun or machine gun.
25	790.23	2nd	Felons in possession of firearms
26			or electronic weapons or devices.
27	800.04(6)(c)	3rd	Lewd or lascivious conduct;
28			offender less than 18 years.
29	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
30			offender 18 years or older.
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1	806.111(1)	3rd	Possess, manufacture, or dispense
2			fire bomb with intent to damage
3			any structure or property.
4	812.015(8)	3rd	Retail theft; property stolen is
5			valued at \$300 or more and one or
6			more specified acts.
7	812.019(1)	2nd	Stolen property; dealing in or
8			trafficking in.
9	812.131(2)(b)	3rd	Robbery by sudden snatching.
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	817.234(11)(b)	2nd	Insurance fraud; property value
15			\$20,000 or more but less than
16			\$100,000.
17	817.568(2)(b)	2nd	Fraudulent use of personal
18			identification information; value
19			of benefit, services received,
20			payment avoided, or amount of
21			injury or fraud, \$75,000 or more.
22	817.625(2)(b)	2nd	Second or subsequent fraudulent
23			use of scanning device or
24			reencoder.
25	825.1025(4)	3rd	Lewd or lascivious exhibition in
26			the presence of an elderly person
27			or disabled adult.
28	827.071(4)	2nd	Possess with intent to promote
29			any photographic material, motion
30			picture, etc., which includes
31			sexual conduct by a child.

1	843.01	3rd	Resist officer with violence to
2			person; resist arrest with
3			violence.
4	874.05(2)	2nd	Encouraging or recruiting another
5			to join a criminal street gang;
6			second or subsequent offense.
7	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
8			cocaine (or other s.
9			893.03(1)(a), (1)(b), (1)(d),
10			(2)(a), (2)(b), or (2)(c)4.
11			drugs).
12	893.13(1)(c)2.	2nd	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) within 1,000
18			feet of a child care facility, <del>or</del>
19			<u>school, or state, county, or</u>
20			<u>municipal park or publicly owned</u>
21			<u>recreational facility.</u>
22	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other s.
24			893.03(1)(a), (1)(b), (1)(d),
25			(2)(a), (2)(b), or (2)(c)4.
26			drugs) within 200 feet of
27			university <del>or public park.</del>
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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			(g) LEVEL 7
22	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
23			injury.
24	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
25			bodily injury.
26	402.319(2)	2nd	Misrepresentation and negligence
27			or intentional act resulting in
28			great bodily harm, permanent
29			disfiguration, permanent
30			disability, or death.
31	409.920(2)	3rd	Medicaid provider fraud.

1	456.065(2)	3rd	Practicing a health care
2			profession without a license.
3	456.065(2)	2nd	Practicing a health care
4			profession without a license
5			which results in serious bodily
6			injury.
7	458.327(1)	3rd	Practicing medicine without a
8			license.
9	459.013(1)	3rd	Practicing osteopathic medicine
10			without a license.
11	460.411(1)	3rd	Practicing chiropractic medicine
12			without a license.
13	461.012(1)	3rd	Practicing podiatric medicine
14			without a license.
15	462.17	3rd	Practicing naturopathy without a
16			license.
17	463.015(1)	3rd	Practicing optometry without a
18			license.
19	464.016(1)	3rd	Practicing nursing without a
20			license.
21	465.015(2)	3rd	Practicing pharmacy without a
22			license.
23	466.026(1)	3rd	Practicing dentistry or dental
24			hygiene without a license.
25	467.201	3rd	Practicing midwifery without a
26			license.
27	468.366	3rd	Delivering respiratory care
28			services without a license.
29	483.828(1)	3rd	Practicing as clinical laboratory
30			personnel without a license.
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1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	484.013(1)(c)	3rd	Preparing or dispensing optical
4			devices without a prescription.
5	484.053	3rd	Dispensing hearing aids without a
6			license.
7	494.0018(2)	1st	Conviction of any violation of
8			ss. 494.001-494.0077 in which the
9			total money and property
10			unlawfully obtained exceeded
11			\$50,000 and there were five or
12			more victims.
13	560.123(8)(b)1.	3rd	Failure to report currency or
14			payment instruments exceeding
15			\$300 but less than \$20,000 by
16			money transmitter.
17	560.125(5)(a)	3rd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments exceeding
20			\$300 but less than \$20,000.
21	655.50(10)(b)1.	3rd	Failure to report financial
22			transactions exceeding \$300 but
23			less than \$20,000 by financial
24			institution.
25	782.051(3)	2nd	Attempted felony murder of a
26			person by a person other than the
27			perpetrator or the perpetrator of
28			an attempted felony.
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1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	2nd	Killing of human being or viable
6			fetus by the operation of a motor
7			vehicle in a reckless manner
8			(vehicular homicide).
9	782.072	2nd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.074(1)(a)	1st	Aggravated battery on sexually
25			violent predators facility staff.
26	784.08(2)(a)	1st	Aggravated battery on a person 65
27			years of age or older.
28	784.081(1)	1st	Aggravated battery on specified
29			official or employee.
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1	784.082(1)	1st	Aggravated battery by detained
2			person on visitor or other
3			detainee.
4	784.083(1)	1st	Aggravated battery on code
5			inspector.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	790.166(3)	2nd	Possessing, selling, using, or
12			attempting to use a hoax weapon
13			of mass destruction.
14	796.03	2nd	Procuring any person under 16
15			years for prostitution.
16	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
17			victim less than 12 years of age;
18			offender less than 18 years.
19	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			18 years or older.
23	806.01(2)	2nd	Maliciously damage structure by
24			fire or explosive.
25	810.02(3)(a)	2nd	Burglary of occupied dwelling;
26			unarmed; no assault or battery.
27	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(d)	2nd	Burglary of occupied conveyance;
30			unarmed; no assault or battery.
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1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; cargo stolen
3			valued at \$50,000, or more;
4			property stolen while causing
5			other property damage; 1st degree
6			grand theft.
7	812.014(2)(b)2.	2nd	Property stolen, emergency
8			medical equipment; 2nd degree
9			grand theft.
10	812.019(2)	1st	Stolen property; initiates,
11			organizes, plans, etc., the theft
12			of property and traffics in
13			stolen property.
14	812.131(2)(a)	2nd	Robbery by sudden snatching.
15	812.133(2)(b)	1st	Carjacking; no firearm, deadly
16			weapon, or other weapon.
17	817.234(11)(c)	1st	Insurance fraud; property value
18			\$100,000 or more.
19	825.102(3)(b)	2nd	Neglecting an elderly person or
20			disabled adult causing great
21			bodily harm, disability, or
22			disfigurement.
23	825.1025(2)	2nd	Lewd or lascivious battery upon
24			an elderly person or disabled
25			adult.
26	825.103(2)(b)	2nd	Exploiting an elderly person or
27			disabled adult and property is
28			valued at \$20,000 or more, but
29			less than \$100,000.
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1	827.03(3)(b)	2nd	Neglect of a child causing great
2			bodily harm, disability, or
3			disfigurement.
4	827.04(3)	3rd	Impregnation of a child under 16
5			years of age by person 21 years
6			of age or older.
7	837.05(2)	3rd	Giving false information about
8			alleged capital felony to a law
9			enforcement officer.
10	872.06	2nd	Abuse of a dead human body.
11	893.13(1)(c)1.	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), (2)(b), or
15			(2)(c)4.) within 1,000 feet of a
16			child care facility, <del>or</del> school,
17			<u>or state, county, or municipal</u>
18			<u>park or publicly owned</u>
19			<u>recreational facility.</u>
20	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
21			cocaine or other drug prohibited
22			under s. 893.03(1)(a), (1)(b),
23			(1)(d), (2)(a), (2)(b), or
24			(2)(c)4., within 1,000 feet of
25			property used for religious
26			services or a specified business
27			site.
28	893.13(4)(a)	1st	Deliver to minor cocaine (or
29			other s. 893.03(1)(a), (1)(b),
30			(1)(d), (2)(a), (2)(b), or
31			(2)(c)4. drugs).

1	893.135(1)(a)1.	1st	Trafficking in cannabis, more
2			than 25 lbs., less than 2,000
3			lbs.
4	893.135		
5	(1)(b)1.a.	1st	Trafficking in cocaine, more than
6			28 grams, less than 200 grams.
7	893.135		
8	(1)(c)1.a.	1st	Trafficking in illegal drugs,
9			more than 4 grams, less than 14
10			grams.
11	893.135		
12	(1)(d)1.	1st	Trafficking in phencyclidine,
13			more than 28 grams, less than 200
14			grams.
15	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
16			than 200 grams, less than 5
17			kilograms.
18	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
19			than 14 grams, less than 28
20			grams.
21	893.135		
22	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
23			grams or more, less than 14
24			grams.
25	893.135		
26	(1)(h)1.a.	1st	Trafficking in
27			gamma-hydroxybutyric acid (GHB),
28			1 kilogram or more, less than 5
29			kilograms.
30			
31			

1 893.135  
2 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1  
3 kilogram or more, less than 5  
4 kilograms.  
5 893.135  
6 (1)(j)2.a. 1st Trafficking in Phenethylamines,  
7 10 grams or more, less than 200  
8 grams.  
9 896.101(5)(a) 3rd Money laundering, financial  
10 transactions exceeding \$300 but  
11 less than \$20,000.  
12 896.104(4)(a)1. 3rd Structuring transactions to evade  
13 reporting or registration  
14 requirements, financial  
15 transactions exceeding \$300 but  
16 less than \$20,000.

17 Section 3. This act shall take effect October 1, 2002.

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19  
20 SENATE SUMMARY

21 Prohibits, and prescribes penalties for, the sale,  
22 manufacture, or delivery of controlled substances, or the  
23 possession of controlled substances with intent to sell,  
24 manufacture, or deliver, within 1,000 feet of any state,  
25 county, or municipal park or publicly owned recreational  
26 facility.  
27  
28  
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