

By the Committee on Crime Prevention, Corrections & Safety
and Representative Bilirakis

1 A bill to be entitled
2 An act relating to controlled substances;
3 creating s. 893.101, F.S.; providing
4 legislative findings and intent; providing for
5 affirmative defense in certain criminal cases;
6 providing an effective date.

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

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10 Section 1. Section 893.101, Florida Statutes, is
11 created to read:

12 893.101 Legislative findings and intent.--

13 (1) The Legislature finds that the cases of Scott v.
14 State, Slip Opinion No. SC94701 (Fla. 2002) and Chicone v.
15 State, 684 So.2d 736 (Fla. 1996), holding that the state must
16 prove that the defendant knew of the illicit nature of a
17 controlled substance found in his or her actual or
18 constructive possession, were contrary to legislative intent.

19 (2) The Legislature finds that knowledge of the
20 illicit nature of a controlled substance is not an element of
21 any offense under this chapter. Lack of knowledge of the
22 illicit nature of a controlled substance is an affirmative
23 defense to the offenses of this chapter.

24 (3) In those instances in which a defendant asserts
25 the affirmative defense described in this section, the
26 possession of a controlled substance, whether actual or
27 constructive, shall give rise to a permissive presumption that
28 the possessor knew of the illicit nature of the substance. It
29 is the intent of the Legislature that, in those cases where
30 such an affirmative defense is raised, the jury shall be

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1 instructed on the permissive presumption provided in this
2 subsection.

3 Section 2. This act shall take effect upon becoming a
4 law.

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7 HOUSE SUMMARY

8 Provides legislative findings and intent that knowledge
9 of the illicit nature of a controlled substance is not an
10 element of any offense under chapter 893, F.S. Provides
11 that such lack of knowledge is an affirmative defense to
12 the offenses of chapter 893, F.S. See bill for details.

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