

By Senator Aronberg

27-373-03

See HB 57

1                                   A bill to be entitled  
2           An act relating to drug abuse prevention and  
3           control; amending s. 893.13, F.S.; prohibiting  
4           the sale, manufacture, or delivery of  
5           controlled substances, or possession of  
6           controlled substances with intent to sell,  
7           manufacture, or deliver, within 1,000 feet of  
8           certain public parks and publicly owned  
9           community centers or recreational facilities;  
10          providing penalties; amending s. 921.0022,  
11          F.S.; ranking such offenses on the offense  
12          severity ranking chart of the Criminal  
13          Punishment Code; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
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 public park, a publicly owned community  
26 center or recreational facility, a child care facility as  
27 defined in s. 402.302, or a public or private elementary,  
28 middle, or secondary school between the hours of 6 a.m. and 12  
29 a.m. Any person who violates this paragraph with respect to:

- 30           1. A controlled substance named or described in s.  
31 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,

1 commits a felony of the first degree, punishable as provided  
2 in s. 775.082, s. 775.083, or s. 775.084. The defendant must  
3 be sentenced to a minimum term of imprisonment of 3 calendar  
4 years unless the offense was committed within 1,000 feet of  
5 the real property comprising a child care facility as defined  
6 in s. 402.302.

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., (2)(c)6.,  
9 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
10 the second degree, punishable as provided in s. 775.082, s.  
11 775.083, 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  
17 This paragraph does not apply to a child care facility unless  
18 the owner or operator of the facility posts a sign that is not  
19 less than 2 square feet in size with a word legend identifying  
20 the facility as a licensed child care facility and that is  
21 posted on the property of the child care facility in a  
22 conspicuous place where the sign is reasonably visible to the  
23 public.

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

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

10           3. Any other controlled substance, except as lawfully  
11 sold, manufactured, or delivered, must be sentenced to pay a  
12 \$500 fine and to serve 100 hours of public service in addition  
13 to any other penalty prescribed by law.

14           (9) Notwithstanding any provision of the sentencing  
15 guidelines or the Criminal Punishment Code to the contrary, on  
16 or after October 1, 1993, any defendant who:

17           (a) Violates subparagraph (1)(a)1., subparagraph  
18 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or  
19 paragraph (5)(a); and

20           (b) Has not previously been convicted, regardless of  
21 whether adjudication was withheld, of any felony, other than a  
22 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,  
23 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph  
24 (5)(a),

25  
26 may be required by the court to successfully complete a term  
27 of probation pursuant to the terms and conditions set forth in  
28 s. 948.034(1), in lieu of serving a term of imprisonment.

29           Section 2. Paragraphs (c) and (e) of subsection (3) of  
30 section 921.0022, Florida Statutes, are amended to read:

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1           921.0022 Criminal Punishment Code; offense severity  
2 ranking chart.--  
3           (3) OFFENSE SEVERITY RANKING CHART  
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5 Florida           Felony  
6 Statute           Degree           Description  
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8                                   (c) LEVEL 3  
9 316.193(2)(b)       3rd       Felony DUI, 3rd conviction.  
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.  
26 327.35(2)(b)       3rd       Felony BUI.  
27 328.05(2)         3rd       Possess, sell, or counterfeit  
28 fictitious, stolen, or fraudulent  
29 titles or bills of sale of  
30 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	812.0145(2)(c)	3rd	Theft from person 65 years of age
26			or older; \$300 or more but less
27			than \$10,000.
28	815.04(4)(b)	2nd	Computer offense devised to
29			defraud or obtain property.
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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	817.234(8)&(9)	3rd	Unlawful solicitation of persons
7			involved in motor vehicle
8			accidents.
9	817.234(11)(a)	3rd	Insurance fraud; property value
10			less than \$20,000.
11	817.505(4)	3rd	Patient brokering.
12	828.12(2)	3rd	Tortures any animal with intent
13			to inflict intense pain, serious
14			physical injury, or death.
15	831.28(2)(a)	3rd	Counterfeiting a payment
16			instrument with intent to defraud
17			or possessing a counterfeit
18			payment instrument.
19	831.29	2nd	Possession of instruments for
20			counterfeiting drivers' licenses
21			or identification cards.
22	838.021(3)(b)	3rd	Threatens unlawful harm to public
23			servant.
24	843.19	3rd	Injure, disable, or kill police
25			dog or horse.
26	870.01(2)	3rd	Riot; inciting or encouraging.
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1	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs).
7	893.13(1)(d)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 university <del>or public park</del> .
13	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver 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 200 feet
18			of public housing facility.
19	893.13(6)(a)	3rd	Possession of any controlled
20			substance other than felony
21			possession of cannabis.
22	893.13(7)(a)8.	3rd	Withhold information from
23			practitioner regarding previous
24			receipt of or prescription for a
25			controlled substance.
26	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
27			controlled substance by fraud,
28			forgery, misrepresentation, etc.
29	893.13(7)(a)10.	3rd	Affix false or forged label to
30			package of controlled substance.
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1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
6			person, or owner of an animal in
7			obtaining a controlled substance
8			through deceptive, untrue, or
9			fraudulent representations in or
10			related to the practitioner's
11			practice.
12	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
13			practitioner's practice to assist
14			a patient, other person, or owner
15			of an animal in obtaining a
16			controlled substance.
17	893.13(8)(a)3.	3rd	Knowingly write a prescription
18			for a controlled substance for a
19			fictitious person.
20	893.13(8)(a)4.	3rd	Write a prescription for a
21			controlled substance for a
22			patient, other person, or an
23			animal if the sole purpose of
24			writing the prescription is a
25			monetary benefit for the
26			practitioner.
27	918.13(1)(a)	3rd	Alter, destroy, or conceal
28			investigation evidence.
29	944.47		
30	(1)(a)1.-2.	3rd	Introduce contraband to
31			correctional facility.



1	944.47(1)(c)	2nd	Possess contraband while upon the
2			grounds of a correctional
3			institution.
4	985.3141	3rd	Escapes from a juvenile facility
5			(secure detention or residential
6			commitment facility).
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8			(e) LEVEL 5
9	316.027(1)(a)	3rd	Accidents involving personal
10			injuries, failure to stop;
11			leaving scene.
12	316.1935(4)	2nd	Aggravated fleeing or eluding.
13	322.34(6)	3rd	Careless operation of motor
14			vehicle with suspended license,
15			resulting in death or serious
16			bodily injury.
17	327.30(5)	3rd	Vessel accidents involving
18			personal injury; leaving scene.
19	381.0041		
20	(11)(b)	3rd	Donate blood, plasma, or organs
21			knowing HIV positive.
22	790.01(2)	3rd	Carrying a concealed firearm.
23	790.162	2nd	Threat to throw or discharge
24			destructive device.
25	790.163(1)	2nd	False report of deadly explosive
26			or weapon of mass destruction.
27	790.221(1)	2nd	Possession of short-barreled
28			shotgun or machine gun.
29	790.23	2nd	Felons in possession of firearms
30			or electronic weapons or devices.
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1	800.04(6)(c)	3rd	Lewd or lascivious conduct;
2			offender less than 18 years.
3	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
4			offender 18 years or older.
5	806.111(1)	3rd	Possess, manufacture, or dispense
6			fire bomb with intent to damage
7			any structure or property.
8	812.0145(2)(b)	2nd	Theft from person 65 years of age
9			or older; \$10,000 or more but
10			less than \$50,000.
11	812.015(8)	3rd	Retail theft; property stolen is
12			valued at \$300 or more and one or
13			more specified acts.
14	812.019(1)	2nd	Stolen property; dealing in or
15			trafficking in.
16	812.131(2)(b)	3rd	Robbery by sudden snatching.
17	812.16(2)	3rd	Owning, operating, or conducting
18			a chop shop.
19	817.034(4)(a)2.	2nd	Communications fraud, value
20			\$20,000 to \$50,000.
21	817.234(11)(b)	2nd	Insurance fraud; property value
22			\$20,000 or more but less than
23			\$100,000.
24	817.568(2)(b)	2nd	Fraudulent use of personal
25			identification information; value
26			of benefit, services received,
27			payment avoided, or amount of
28			injury or fraud, \$75,000 or more.
29	817.625(2)(b)	2nd	Second or subsequent fraudulent
30			use of scanning device or
31			reencoder.

1	825.1025(4)	3rd	Lewd or lascivious exhibition in
2			the presence of an elderly person
3			or disabled adult.
4	827.071(4)	2nd	Possess with intent to promote
5			any photographic material, motion
6			picture, etc., which includes
7			sexual conduct by a child.
8	839.13(2)(b)	2nd	Falsifying records of an
9			individual in the care and
10			custody of a state agency
11			involving great bodily harm or
12			death.
13	843.01	3rd	Resist officer with violence to
14			person; resist arrest with
15			violence.
16	874.05(2)	2nd	Encouraging or recruiting another
17			to join a criminal street gang;
18			second or subsequent offense.
19	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
20			cocaine (or other s.
21			893.03(1)(a), (1)(b), (1)(d),
22			(2)(a), (2)(b), or (2)(c)4.
23			drugs).
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1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c)1., (2)(c)2.,
4			(2)(c)3., (2)(c)5., (2)(c)6.,
5			(2)(c)7., (2)(c)8., (2)(c)9.,
6			(3), or (4) drugs) within 1,000
7			feet of a <u>public park, publicly</u>
8			<u>owned community center or</u>
9			<u>recreational facility, child care</u>
10			<u>facility, or school.</u>
11	893.13(1)(d)1.	1st	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) within 200 feet of
16			university <del>or public park.</del>
17	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
18			cannabis or other drug prohibited
19			under s. 893.03(1)(c), (2)(c)1.,
20			(2)(c)2., (2)(c)3., (2)(c)5.,
21			(2)(c)6., (2)(c)7., (2)(c)8.,
22			(2)(c)9., (3), or (4) within
23			1,000 feet of property used for
24			religious services or a specified
25			business site.
26	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
27			cocaine (or other s.
28			893.03(1)(a), (1)(b), (1)(d), or
29			(2)(a), (2)(b), or (2)(c)4.
30			drugs) within 200 feet of public
31			housing facility.

1 893.13(4)(b) 2nd Deliver to minor cannabis (or  
2 other s. 893.03(1)(c), (2)(c)1.,  
3 (2)(c)2., (2)(c)3., (2)(c)5.,  
4 (2)(c)6., (2)(c)7., (2)(c)8.,  
5 (2)(c)9., (3), or (4) drugs).  
6 Section 3. This act shall take effect October 1, 2003.  
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