

By Senator Saunders

37-239-06

1 A bill to be entitled
2 An act relating to controlled substances;
3 amending s. 893.135, F.S.; providing for
4 aggregation of amounts of controlled substances
5 in certain circumstances for offenses involving
6 trafficking; amending s. 903.047, F.S.;
7 requiring persons charged with specified felony
8 drug crimes who are seeking pretrial release on
9 bond to make specified showings as to the
10 source and legitimacy of funds and the surety's
11 purpose and intentions; amending s. 903.0471,
12 F.S.; requiring that a defendant on pretrial
13 release for a felony drug offense who is
14 subsequently arrested for a new felony drug
15 offense be returned to custody and show that he
16 or she is not a danger to the community in
17 order to be released again; creating the Drug
18 Paraphernalia Abatement Task Force within the
19 Executive Office of the Governor; prescribing
20 the members of the task force; providing for
21 meetings and duties of the task force;
22 providing that meetings and records of the task
23 force are subject to public-records
24 requirements; providing for members of the task
25 force to be reimbursed for per diem and travel
26 expenses; requiring the Office of Drug Control
27 within the Executive Office of the Governor to
28 provide staff support; requiring reports;
29 requiring cooperation by state agencies;
30 providing for abolishing the task force on a
31 specified date; providing effective dates.

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

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3 Section 1. Effective October 1, 2006, subsection (8)
4 is added to section 893.135, Florida Statutes, to read:

5 893.135 Trafficking; mandatory sentences; suspension
6 or reduction of sentences; conspiracy to engage in
7 trafficking.--

8 (8) Amounts of controlled substances sold, purchased,
9 manufactured, delivered, brought into the state, or actually
10 or constructively possessed by a specific person in a series
11 of violations of this chapter committed pursuant to one scheme
12 or course of conduct extending over a period of not more than
13 90 days may be aggregated in determining whether the weight
14 thresholds for offenses in this section have been met or
15 exceeded.

16 Section 2. Effective October 1, 2006, present
17 subsection (2) of section 903.047, Florida Statutes, is
18 redesignated as subsection (3), and a new subsection (2) is
19 added to that section, to read:

20 903.047 Conditions of pretrial release.--

21 (2) As a condition of pretrial release on appearance
22 or criminal surety bond of any person charged with a felony
23 under chapter 893 involving the sale, delivery, cultivation,
24 or manufacture of any controlled substance; the possession of,
25 with intent to sell, deliver, cultivate, or manufacture, any
26 controlled substance; or trafficking in any controlled
27 substance, the court shall require that the defendant prove by
28 a preponderance of the evidence:

29 (a) The source and legitimacy of any funds intended to
30 be used to obtain his or her release.

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1 (b) If the defendant's release is to be guaranteed by
2 criminal surety bond, the surety's purpose and intention to
3 secure the appearance of the defendant to answer charges.

4 Section 3. Effective October 1, 2006, section
5 903.0471, Florida Statutes, is amended to read:

6 903.0471 Violation of condition of pretrial release.--

7 (1) Notwithstanding s. 907.041, a court may, on its
8 own motion, revoke pretrial release and order pretrial
9 detention if the court finds probable cause to believe that
10 the defendant committed a new crime while on pretrial release.

11 (2) Notwithstanding s. 907.041, if a defendant has
12 been granted pretrial release on a charge of any felony
13 committed in violation of chapter 893 involving the sale,
14 delivery, cultivation, or manufacture of any controlled
15 substance; the possession of, with intent to sell, deliver,
16 cultivate, or manufacture, any controlled substance; or
17 trafficking in any controlled substance, and that defendant is
18 subsequently arrested on a new charge of a felony committed in
19 violation of chapter 893 involving the sale, delivery,
20 cultivation, or manufacture of any controlled substance; the
21 possession of, with intent to sell, deliver, cultivate, or
22 manufacture, any controlled substance; or trafficking in any
23 controlled substance, the court shall revoke the defendant's
24 existing pretrial release, and the defendant shall be returned
25 to custody on the pending charges. The defendant is not
26 eligible for pretrial release on the subsequent charge until
27 an evidentiary hearing is held. At such hearing for pretrial
28 release on the subsequent charge, the burden is on the
29 defendant to prove by a preponderance of the evidence that his
30 or her release would not be a danger to the community.

31 Section 4. Drug Paraphernalia Abatement Task Force.--

1 (1)(a) There is created within the Executive Office of
2 the Governor the Drug Paraphernalia Abatement Task Force for
3 the purpose of recommending strategies and actions for abating
4 access to and the use and proliferation of drug paraphernalia,
5 as that term is defined in s. 893.145, Florida Statutes.

6 (b) The task force shall consist of the following
7 eight members:

8 1. The Secretary of Business and Professional
9 Regulation or his or her designee.

10 2. The director of the Office of Drug Control within
11 the Executive Office of the Governor.

12 3. A representative from a corporation that is
13 licensed to do business in this state and that sells any of
14 the items described in s. 893.145, Florida Statutes, which may
15 be used as drug paraphernalia.

16 4. A local law enforcement official or officer.

17 5. A member of a faith-based community.

18 6. A superintendent of a school district or a
19 principal of a secondary school.

20 7. A member of a community organization concerned
21 about issues relating to illicit activities involving
22 controlled substances, including access to and the use and
23 proliferation of drug paraphernalia.

24 8. A former or recovering drug addict.

25 (c) Members of the task force shall be appointed by
26 the Governor by July 1, 2006, and shall be representative of
27 the geographic regions and ethnic and gender diversity of this
28 state. The first meeting of the task force shall be held by
29 July 15, 2006, at which time the members shall select by
30 majority vote a chairperson from among the task force members.
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1 All recommendations of the task force shall be by majority
2 vote.

3 (d) The task force shall meet at the call of the
4 chairperson and shall conduct at least three public meetings,
5 which shall be held in localities throughout this state which
6 have a significant urban business district or have experienced
7 problems with illicit controlled-substance activity resulting,
8 in part, from access to and the use and proliferation of drug
9 paraphernalia.

10 (e) Meetings of the task force shall be open to the
11 public and are subject to the requirements of chapter 119,
12 Florida Statutes. Records of the task force are public records
13 and subject to the requirements of chapter 119, Florida
14 Statutes, except to the extent that public access to any of
15 those records may be restricted pursuant to that chapter.

16 (f) Members of the task force shall serve without
17 compensation, but are entitled to reimbursement for per diem
18 and travel expenses in accordance with s. 112.061, Florida
19 Statutes.

20 (g) The Office of Drug Control within the Executive
21 Office of the Governor shall provide staff support for the
22 task force within existing appropriations.

23 (2)(a) The task force shall study and take testimony
24 regarding:

25 1. The nature and extent of the problem of access to
26 and the use and proliferation of drug paraphernalia in this
27 state, including the extent to which the marketing, selling,
28 or purchasing of items that may be used as drug paraphernalia
29 may contribute to that problem.

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- 1 2. Businesses that sell items that may be used as drug
2 paraphernalia, including, but not limited to, consideration
3 of:
- 4 a. The types, ownership, organization, and operation
5 of those businesses.
- 6 b. The regulation of those businesses and the state
7 and federal laws applicable to them.
- 8 c. The marketing or selling of those items by those
9 businesses.
- 10 d. The inventory and sale of those items relative to
11 the total inventory and total sales of those businesses.
- 12 e. Measures taken by those businesses to restrict
13 purchases of those items by minors or otherwise restrict
14 purchases of those items.
- 15 f. The clientele of those businesses.
- 16 g. The prevalence of civil or criminal enforcement
17 actions taken against those businesses for violations of state
18 or federal rules or laws which are relevant to prohibited
19 activities involving drug paraphernalia.
- 20 h. The location of those businesses relative to the
21 location of schools, churches or places of worship,
22 neighborhoods, and buildings, facilities, and areas where
23 children may regularly congregate.
- 24 i. The opinions and concerns of local residents,
25 community and neighborhood activists and leaders, faith-based
26 community members and leaders, school personnel and students,
27 businesses, service providers, local law enforcement officials
28 and officers, and local government officials regarding those
29 businesses.
- 30 j. Local or community efforts to restrict or regulate
31 those businesses.

1 3. Current rules and laws and current efforts by
2 regulatory agencies and law enforcement agencies to abating
3 access to and the use and proliferation of drug paraphernalia
4 in this state, including, but not limited to, consideration of
5 whether it is necessary to amend those rules or laws or
6 propose new rules or new legislation.

7 4. Approaches to abate access to and the use and
8 proliferation of drug paraphernalia, including, but not
9 limited to:

10 a. Conforming the rules or laws of this state to
11 federal rules or laws that are relevant to abating access to
12 and the use and proliferation of drug paraphernalia.

13 b. Restricting the marketing, selling, or purchasing
14 of any item that may be used as drug paraphernalia and legal
15 concerns relevant to that restriction.

16 c. Adopting provisions of rules or laws of other
17 states which are relevant to abating access to and the use and
18 proliferation of drug paraphernalia.

19 5. Any other subject that is relevant to abating
20 access to and the use and proliferation of drug paraphernalia.

21 (b) The task force shall submit a preliminary draft
22 report of its findings and recommendations to the Governor,
23 the President of the Senate, and the Speaker of the House of
24 Representatives at least 45 days before the first day of the
25 2007 Regular Session of the Legislature. The final report
26 shall be filed with the Governor, the President of the Senate,
27 and the Speaker of the House of Representatives at least 30
28 days before the first day of the 2007 Regular Session. In
29 addition to the findings and recommendations included in the
30 final report, the report must include a draft of proposed
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1 rules and proposed legislation for any recommendations
2 requiring proposed rules and proposed legislation.

3 (c) Each state agency shall fully cooperate with the
4 task force in the performance of its duties.

5 (3) All meetings of the task force and all business of
6 the task force for which reimbursement may be requested shall
7 be concluded before the final report is filed. The task force
8 is abolished July 1, 2007.

9 Section 5. Except as otherwise expressly provided in
10 this act, this act shall take effect upon becoming a law.

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13 SENATE SUMMARY

14 Provides for aggregating the amount of controlled
15 substances if an offense involves trafficking. Requires
16 that persons charged with certain drug crimes prove the
17 legitimacy of funds provided to a surety for purposes of
18 pretrial release on bond. Creates the Drug Paraphernalia
19 Abatement Task Force within the Executive Office of the
20 Governor. Provides for membership and duties. (See bill
21 for details.)
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