

ENROLLED  
CS/HB 1039

2011 Legislature

1                                   A bill to be entitled  
2       An act relating to controlled substances; amending s.  
3       893.03, F.S.; including certain hallucinogenic substances  
4       on the list of controlled substances in Schedule I;  
5       reenacting ss. 893.13(1), (2), (4), and (5),  
6       893.135(1)(1), and 921.0022(3)(b), (c), and (e), F.S.,  
7       relating to prohibited acts and penalties regarding  
8       controlled substances and the offense severity chart of  
9       the Criminal Punishment Code, to incorporate the amendment  
10      to s. 893.03, F.S., in references thereto; providing an  
11      effective date.

12  
13   Be It Enacted by the Legislature of the State of Florida:

14  
15       Section 1. Paragraph (c) of subsection (1) of section  
16      893.03, Florida Statutes, is amended to read:

17       893.03 Standards and schedules.—The substances enumerated  
18      in this section are controlled by this chapter. The controlled  
19      substances listed or to be listed in Schedules I, II, III, IV,  
20      and V are included by whatever official, common, usual,  
21      chemical, or trade name designated. The provisions of this  
22      section shall not be construed to include within any of the  
23      schedules contained in this section any excluded drugs listed  
24      within the purview of 21 C.F.R. s. 1308.22, styled "Excluded  
25      Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
26      Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
27      Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
28      Anabolic Steroid Products."

ENROLLED  
CS/HB 1039

2011 Legislature

29 (1) SCHEDULE I.—A substance in Schedule I has a high  
30 potential for abuse and has no currently accepted medical use in  
31 treatment in the United States and in its use under medical  
32 supervision does not meet accepted safety standards. The  
33 following substances are controlled in Schedule I:

34 (c) Unless specifically excepted or unless listed in  
35 another schedule, any material, compound, mixture, or  
36 preparation which contains any quantity of the following  
37 hallucinogenic substances or which contains any of their salts,  
38 isomers, and salts of isomers, whenever the existence of such  
39 salts, isomers, and salts of isomers is possible within the  
40 specific chemical designation:

- 41 1. Alpha-ethyltryptamine.
- 42 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-  
43 methylaminorex).
- 44 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 45 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 46 5. 4-Bromo-2, 5-dimethoxyphenethylamine.
- 47 6. Bufotenine.
- 48 7. Cannabis.
- 49 8. Cathinone.
- 50 9. Diethyltryptamine.
- 51 10. 2,5-Dimethoxyamphetamine.
- 52 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 53 12. Dimethyltryptamine.
- 54 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine  
55 analog of phencyclidine).
- 56 14. N-Ethyl-3-piperidyl benzilate.

ENROLLED  
CS/HB 1039

2011 Legislature

- 57 | 15. N-ethylamphetamine.
- 58 | 16. Fenethylamine.
- 59 | 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 60 | 18. Ibogaine.
- 61 | 19. Lysergic acid diethylamide (LSD).
- 62 | 20. Mescaline.
- 63 | 21. Methcathinone.
- 64 | 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 65 | 23. 4-methoxyamphetamine.
- 66 | 24. 4-methoxymethamphetamine.
- 67 | 25. 4-Methyl-2,5-dimethoxyamphetamine.
- 68 | 26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 69 | 27. 3,4-Methylenedioxyamphetamine.
- 70 | 28. N-Methyl-3-piperidyl benzilate.
- 71 | 29. N,N-dimethylamphetamine.
- 72 | 30. Parahexyl.
- 73 | 31. Peyote.
- 74 | 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
- 75 | analog of phencyclidine).
- 76 | 33. Psilocybin.
- 77 | 34. Psilocyn.
- 78 | 35. Salvia divinorum, except for any drug product approved
- 79 | by the United States Food and Drug Administration which contains
- 80 | Salvia divinorum or its isomers, esters, ethers, salts, and
- 81 | salts of isomers, esters, and ethers, whenever the existence of
- 82 | such isomers, esters, ethers, and salts is possible within the
- 83 | specific chemical designation.
- 84 | 36. Salvinorin A, except for any drug product approved by

ENROLLED

CS/HB 1039

2011 Legislature

85 the United States Food and Drug Administration which contains  
 86 Salvinorin A or its isomers, esters, ethers, salts, and salts of  
 87 isomers, esters, and ethers, whenever the existence of such  
 88 isomers, esters, ethers, and salts is possible within the  
 89 specific chemical designation.

90 37. Tetrahydrocannabinols.

91 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)  
 92 (Thiophene analog of phencyclidine).

93 39. 3,4,5-Trimethoxyamphetamine.

94 40. 3,4-Methylenedioxymethcathinone.

95 41. 3,4-Methylenedioxypyrovalerone (MDPV).

96 42. Methylnmethcathinone.

97 43. Methoxymethcathinone.

98 44. Fluoromethcathinone.

99 45. Methylethcathinone.

100 Section 2. For the purpose of incorporating the amendment  
 101 made by this act to section 893.03, Florida Statutes, in  
 102 references thereto, subsections (1), (2), (4), and (5) of  
 103 section 893.13, Florida Statutes, are reenacted to read:

104 893.13 Prohibited acts; penalties.—

105 (1) (a) Except as authorized by this chapter and chapter  
 106 499, it is unlawful for any person to sell, manufacture, or  
 107 deliver, or possess with intent to sell, manufacture, or  
 108 deliver, a controlled substance. Any person who violates this  
 109 provision with respect to:

110 1. A controlled substance named or described in s.  
 111 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.,  
 112 commits a felony of the second degree, punishable as provided in

ENROLLED  
CS/HB 1039

2011 Legislature

113 s. 775.082, s. 775.083, or s. 775.084.

114 2. A controlled substance named or described in s.  
115 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
116 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
117 the third degree, punishable as provided in s. 775.082, s.  
118 775.083, or s. 775.084.

119 3. A controlled substance named or described in s.  
120 893.03(5) commits a misdemeanor of the first degree, punishable  
121 as provided in s. 775.082 or s. 775.083.

122 (b) Except as provided in this chapter, it is unlawful to  
123 sell or deliver in excess of 10 grams of any substance named or  
124 described in s. 893.03(1)(a) or (1)(b), or any combination  
125 thereof, or any mixture containing any such substance. Any  
126 person who violates this paragraph commits a felony of the first  
127 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
128 775.084.

129 (c) Except as authorized by this chapter, it is unlawful  
130 for any person to sell, manufacture, or deliver, or possess with  
131 intent to sell, manufacture, or deliver, a controlled substance  
132 in, on, or within 1,000 feet of the real property comprising a  
133 child care facility as defined in s. 402.302 or a public or  
134 private elementary, middle, or secondary school between the  
135 hours of 6 a.m. and 12 midnight, or at any time in, on, or  
136 within 1,000 feet of real property comprising a state, county,  
137 or municipal park, a community center, or a publicly owned  
138 recreational facility. For the purposes of this paragraph, the  
139 term "community center" means a facility operated by a nonprofit  
140 community-based organization for the provision of recreational,

ENROLLED  
CS/HB 1039

2011 Legislature

141 social, or educational services to the public. Any person who  
142 violates this paragraph with respect to:

143 1. A controlled substance named or described in s.  
144 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
145 commits a felony of the first degree, punishable as provided in  
146 s. 775.082, s. 775.083, or s. 775.084. The defendant must be  
147 sentenced to a minimum term of imprisonment of 3 calendar years  
148 unless the offense was committed within 1,000 feet of the real  
149 property comprising a child care facility as defined in s.  
150 402.302.

151 2. A controlled substance named or described in s.  
152 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
153 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
154 the second degree, punishable as provided in s. 775.082, s.  
155 775.083, or s. 775.084.

156 3. Any other controlled substance, except as lawfully  
157 sold, manufactured, or delivered, must be sentenced to pay a  
158 \$500 fine and to serve 100 hours of public service in addition  
159 to any other penalty prescribed by law.

160  
161 This paragraph does not apply to a child care facility unless  
162 the owner or operator of the facility posts a sign that is not  
163 less than 2 square feet in size with a word legend identifying  
164 the facility as a licensed child care facility and that is  
165 posted on the property of the child care facility in a  
166 conspicuous place where the sign is reasonably visible to the  
167 public.

168 (d) Except as authorized by this chapter, it is unlawful

ENROLLED  
CS/HB 1039

2011 Legislature

169 for any person to sell, manufacture, or deliver, or possess with  
170 intent to sell, manufacture, or deliver, a controlled substance  
171 in, on, or within 1,000 feet of the real property comprising a  
172 public or private college, university, or other postsecondary  
173 educational institution. Any person who violates this paragraph  
174 with respect to:

175 1. A controlled substance named or described in s.  
176 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
177 commits a felony of the first degree, punishable as provided in  
178 s. 775.082, s. 775.083, or s. 775.084.

179 2. A controlled substance named or described in s.  
180 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
181 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
182 the second degree, punishable as provided in s. 775.082, s.  
183 775.083, or s. 775.084.

184 3. Any other controlled substance, except as lawfully  
185 sold, manufactured, or delivered, must be sentenced to pay a  
186 \$500 fine and to serve 100 hours of public service in addition  
187 to any other penalty prescribed by law.

188 (e) Except as authorized by this chapter, it is unlawful  
189 for any person to sell, manufacture, or deliver, or possess with  
190 intent to sell, manufacture, or deliver, a controlled substance  
191 not authorized by law in, on, or within 1,000 feet of a physical  
192 place for worship at which a church or religious organization  
193 regularly conducts religious services or within 1,000 feet of a  
194 convenience business as defined in s. 812.171. Any person who  
195 violates this paragraph with respect to:

196 1. A controlled substance named or described in s.

ENROLLED

CS/HB 1039

2011 Legislature

197 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 198 commits a felony of the first degree, punishable as provided in  
 199 s. 775.082, s. 775.083, or s. 775.084.

200 2. A controlled substance named or described in s.  
 201 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 202 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 203 the second degree, punishable as provided in s. 775.082, s.  
 204 775.083, or s. 775.084.

205 3. Any other controlled substance, except as lawfully  
 206 sold, manufactured, or delivered, must be sentenced to pay a  
 207 \$500 fine and to serve 100 hours of public service in addition  
 208 to any other penalty prescribed by law.

209 (f) Except as authorized by this chapter, it is unlawful  
 210 for any person to sell, manufacture, or deliver, or possess with  
 211 intent to sell, manufacture, or deliver, a controlled substance  
 212 in, on, or within 1,000 feet of the real property comprising a  
 213 public housing facility at any time. For purposes of this  
 214 section, the term "real property comprising a public housing  
 215 facility" means real property, as defined in s. 421.03(12), of a  
 216 public corporation created as a housing authority pursuant to  
 217 part I of chapter 421. Any person who violates this paragraph  
 218 with respect to:

219 1. A controlled substance named or described in s.  
 220 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 221 commits a felony of the first degree, punishable as provided in  
 222 s. 775.082, s. 775.083, or s. 775.084.

223 2. A controlled substance named or described in s.  
 224 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,

ENROLLED  
CS/HB 1039

2011 Legislature

225 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of  
226 the second degree, punishable as provided in s. 775.082, s.  
227 775.083, or s. 775.084.

228 3. Any other controlled substance, except as lawfully  
229 sold, manufactured, or delivered, must be sentenced to pay a  
230 \$500 fine and to serve 100 hours of public service in addition  
231 to any other penalty prescribed by law.

232 (g) Except as authorized by this chapter, it is unlawful  
233 for any person to manufacture methamphetamine or phencyclidine,  
234 or possess any listed chemical as defined in s. 893.033 in  
235 violation of s. 893.149 and with intent to manufacture  
236 methamphetamine or phencyclidine. If any person violates this  
237 paragraph and:

238 1. The commission or attempted commission of the crime  
239 occurs in a structure or conveyance where any child under 16  
240 years of age is present, the person commits a felony of the  
241 first degree, punishable as provided in s. 775.082, s. 775.083,  
242 or s. 775.084. In addition, the defendant must be sentenced to a  
243 minimum term of imprisonment of 5 calendar years.

244 2. The commission of the crime causes any child under 16  
245 years of age to suffer great bodily harm, the person commits a  
246 felony of the first degree, punishable as provided in s.  
247 775.082, s. 775.083, or s. 775.084. In addition, the defendant  
248 must be sentenced to a minimum term of imprisonment of 10  
249 calendar years.

250 (h) Except as authorized by this chapter, it is unlawful  
251 for any person to sell, manufacture, or deliver, or possess with  
252 intent to sell, manufacture, or deliver, a controlled substance

ENROLLED  
CS/HB 1039

2011 Legislature

253 in, on, or within 1,000 feet of the real property comprising an  
254 assisted living facility, as that term is used in chapter 429.

255 Any person who violates this paragraph with respect to:

256 1. A controlled substance named or described in s.  
257 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
258 commits a felony of the first degree, punishable as provided in  
259 s. 775.082, s. 775.083, or s. 775.084.

260 2. A controlled substance named or described in s.  
261 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
262 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
263 the second degree, punishable as provided in s. 775.082, s.  
264 775.083, or s. 775.084.

265 (2)(a) Except as authorized by this chapter and chapter  
266 499, it is unlawful for any person to purchase, or possess with  
267 intent to purchase, a controlled substance. Any person who  
268 violates this provision with respect to:

269 1. A controlled substance named or described in s.  
270 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
271 commits a felony of the second degree, punishable as provided in  
272 s. 775.082, s. 775.083, or s. 775.084.

273 2. A controlled substance named or described in s.  
274 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
275 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
276 the third degree, punishable as provided in s. 775.082, s.  
277 775.083, or s. 775.084.

278 3. A controlled substance named or described in s.  
279 893.03(5) commits a misdemeanor of the first degree, punishable  
280 as provided in s. 775.082 or s. 775.083.

ENROLLED  
CS/HB 1039

2011 Legislature

281 (b) Except as provided in this chapter, it is unlawful to  
282 purchase in excess of 10 grams of any substance named or  
283 described in s. 893.03(1)(a) or (1)(b), or any combination  
284 thereof, or any mixture containing any such substance. Any  
285 person who violates this paragraph commits a felony of the first  
286 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
287 775.084.

288 (4) Except as authorized by this chapter, it is unlawful  
289 for any person 18 years of age or older to deliver any  
290 controlled substance to a person under the age of 18 years, or  
291 to use or hire a person under the age of 18 years as an agent or  
292 employee in the sale or delivery of such a substance, or to use  
293 such person to assist in avoiding detection or apprehension for  
294 a violation of this chapter. Any person who violates this  
295 provision with respect to:

296 (a) A controlled substance named or described in s.  
297 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
298 commits a felony of the first degree, punishable as provided in  
299 s. 775.082, s. 775.083, or s. 775.084.

300 (b) A controlled substance named or described in s.  
301 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
302 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
303 the second degree, punishable as provided in s. 775.082, s.  
304 775.083, or s. 775.084.

305  
306 Imposition of sentence may not be suspended or deferred, nor  
307 shall the person so convicted be placed on probation.

308 (5) It is unlawful for any person to bring into this state

ENROLLED  
CS/HB 1039

2011 Legislature

309 any controlled substance unless the possession of such  
 310 controlled substance is authorized by this chapter or unless  
 311 such person is licensed to do so by the appropriate federal  
 312 agency. Any person who violates this provision with respect to:

313 (a) A controlled substance named or described in s.  
 314 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 315 commits a felony of the second degree, punishable as provided in  
 316 s. 775.082, s. 775.083, or s. 775.084.

317 (b) A controlled substance named or described in s.  
 318 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 319 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 320 the third degree, punishable as provided in s. 775.082, s.  
 321 775.083, or s. 775.084.

322 (c) A controlled substance named or described in s.  
 323 893.03(5) commits a misdemeanor of the first degree, punishable  
 324 as provided in s. 775.082 or s. 775.083.

325 Section 3. For the purpose of incorporating the amendment  
 326 made by this act to section 893.03, Florida Statutes, in  
 327 references thereto, paragraph (1) of subsection (1) of section  
 328 893.135, Florida Statutes, is reenacted to read:

329 893.135 Trafficking; mandatory sentences; suspension or  
 330 reduction of sentences; conspiracy to engage in trafficking.—

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

333 (1)1. Any person who knowingly sells, purchases,  
 334 manufactures, delivers, or brings into this state, or who is  
 335 knowingly in actual or constructive possession of, 1 gram or  
 336 more of lysergic acid diethylamide (LSD) as described in s.

ENROLLED  
CS/HB 1039

2011 Legislature

337 893.03(1)(c), or of any mixture containing lysergic acid  
338 diethylamide (LSD), commits a felony of the first degree, which  
339 felony shall be known as "trafficking in lysergic acid  
340 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
341 775.083, or s. 775.084. If the quantity involved:

342 a. Is 1 gram or more, but less than 5 grams, such person  
343 shall be sentenced to a mandatory minimum term of imprisonment  
344 of 3 years, and the defendant shall be ordered to pay a fine of  
345 \$50,000.

346 b. Is 5 grams or more, but less than 7 grams, such person  
347 shall be sentenced to a mandatory minimum term of imprisonment  
348 of 7 years, and the defendant shall be ordered to pay a fine of  
349 \$100,000.

350 c. Is 7 grams or more, such person shall be sentenced to a  
351 mandatory minimum term of imprisonment of 15 calendar years and  
352 pay a fine of \$500,000.

353 2. Any person who knowingly manufactures or brings into  
354 this state 7 grams or more of lysergic acid diethylamide (LSD)  
355 as described in s. 893.03(1)(c), or any mixture containing  
356 lysergic acid diethylamide (LSD), and who knows that the  
357 probable result of such manufacture or importation would be the  
358 death of any person commits capital manufacture or importation  
359 of lysergic acid diethylamide (LSD), a capital felony punishable  
360 as provided in ss. 775.082 and 921.142. Any person sentenced for  
361 a capital felony under this paragraph shall also be sentenced to  
362 pay the maximum fine provided under subparagraph 1.

363 Section 4. For the purpose of incorporating the amendment  
364 made by this act to section 893.03, Florida Statutes, in

ENROLLED  
CS/HB 1039

2011 Legislature

365 references thereto, paragraphs (b), (c), and (e) of subsection  
366 (3) of section 921.0022, Florida Statutes, are reenacted to  
367 read:

368 921.0022 Criminal Punishment Code; offense severity  
369 ranking chart.—

370 (3) OFFENSE SEVERITY RANKING CHART

371 (b) LEVEL 2

372

Florida Statute	Felony Degree	Description
379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413 (5) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.

373

374

375

376

377

ENROLLED  
CS/HB 1039

2011 Legislature

378	590.28 (1)	3rd	Intentional burning of lands.
379	784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
380	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
381	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
382	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
383	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
384	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
385	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

ENROLLED  
CS/HB 1039

2011 Legislature

386	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
387	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
388	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
389	817.52 (3)	3rd	Failure to redeliver hired vehicle.
390	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
391	817.60 (5)	3rd	Dealing in credit cards of another.
392	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
393	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
394	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.

ENROLLED  
CS/HB 1039

2011 Legislature

395	831.01	3rd	Forgery.
396	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
397	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
398	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
399	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
400	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
401	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
402	843.08	3rd	Falsely impersonating an officer.
403	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.

ENROLLED  
CS/HB 1039

2011 Legislature

404	893.147 (2)	3rd	Manufacture or delivery of drug paraphernalia.
405	(c) LEVEL 3		
406			
407	Florida Statute	Felony Degree	Description
408	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
409	316.066 (4) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
410	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
411	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
412	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
413	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

ENROLLED

CS/HB 1039

2011 Legislature

414	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
415	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
416	327.35(2)(b)	3rd	Felony BUI.
417	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
418	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
419	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
420	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

ENROLLED  
CS/HB 1039

2011 Legislature

421	379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
422	400.9935 (4)	3rd	Operating a clinic without a license or filing false license application or other required information.
423	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
424	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
425	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
426	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
427	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
428	697.08	3rd	Equity skimming.

ENROLLED  
CS/HB 1039

2011 Legislature

429	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
430	796.05 (1)	3rd	Live on earnings of a prostitute.
431	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
432	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
433	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
434	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
435	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
436	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida

ENROLLED  
CS/HB 1039

2011 Legislature

			Communications Fraud Act), property valued at less than \$20,000.
437	817.233	3rd	Burning to defraud insurer.
438	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
439	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
440	817.236	3rd	Filing a false motor vehicle insurance application.
441	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
442	817.413 (2)	3rd	Sale of used goods as new.
443	817.505 (4)	3rd	Patient brokering.
444	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
445	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with

ENROLLED  
CS/HB 1039

2011 Legislature

			intent to defraud or possessing a counterfeit payment instrument.
446	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
447	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
448	843.19	3rd	Injure, disable, or kill police dog or horse.
449	860.15(3)	3rd	Overcharging for repairs and parts.
450	870.01(2)	3rd	Riot; inciting or encouraging.
451	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
452	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs

ENROLLED  
CS/HB 1039

2011 Legislature

453	893.13(1)(f)2.	2nd	within 1,000 feet of university. Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
454	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
455	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
456	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
457	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
458	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
459			

ENROLLED  
CS/HB 1039

2011 Legislature

- 460 893.13(8)(a)1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
- 461 893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
- 462 893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.
- 463 893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
- 464 918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.
- 944.47 3rd Introduce contraband to correctional

ENROLLED  
CS/HB 1039

2011 Legislature

465	(1) (a) 1.-2.		facility.
466	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
467	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
468	(e) LEVEL 5		
469	Florida Statute	Felony Degree	Description
470	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
471	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
472	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
473	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
474	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing

ENROLLED  
CS/HB 1039

2011 Legislature

475			HIV positive.
	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
476			
	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
477			
	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
478			
	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
479			
	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
480			
	790.01 (2)	3rd	Carrying a concealed firearm.
481			
	790.162	2nd	Threat to throw or discharge destructive device.
482			
	790.163 (1)	2nd	False report of deadly explosive or

ENROLLED  
CS/HB 1039

2011 Legislature

483			weapon of mass destruction.
484	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
485	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
486	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
487	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
488	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
489	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
490	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

ENROLLED  
CS/HB 1039

2011 Legislature

491	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
492	812.131 (2) (b)	3rd	Robbery by sudden snatching.
493	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
494	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
495	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
496	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
497	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

ENROLLED  
CS/HB 1039

2011 Legislature

498	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
499	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
500	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
501	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
502	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
503	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
504	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
	847.0137	3rd	Transmission of pornography by

ENROLLED  
CS/HB 1039

2011 Legislature

505	(2) & (3)		electronic device or equipment.
	847.0138	3rd	Transmission of material harmful to
	(2) & (3)		minors to a minor by electronic device or equipment.
506			
	874.05(2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
507			
	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
508			
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
509			
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b),

ENROLLED  
CS/HB 1039

2011 Legislature

510 (1) (d), (2) (a), (2) (b), or (2) (c) 4.  
drugs) within 1,000 feet of university.

893.13(1) (e) 2. 2nd Sell, manufacture, or deliver cannabis  
or other drug prohibited under s.  
893.03(1) (c), (2) (c) 1., (2) (c) 2.,  
(2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7.,  
(2) (c) 8., (2) (c) 9., (3), or (4) within  
1,000 feet of property used for  
religious services or a specified  
business site.

511 893.13(1) (f) 1. 1st Sell, manufacture, or deliver cocaine  
(or other s. 893.03(1) (a), (1) (b),  
(1) (d), or (2) (a), (2) (b), or (2) (c) 4.  
drugs) within 1,000 feet of public  
housing facility.

512 893.13(4) (b) 2nd Deliver to minor cannabis (or other s.  
893.03(1) (c), (2) (c) 1., (2) (c) 2.,  
(2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7.,  
(2) (c) 8., (2) (c) 9., (3), or (4) drugs).

513 893.1351(1) 3rd Ownership, lease, or rental for  
trafficking in or manufacturing of  
controlled substance.

514  
515 Section 5. This act shall take effect July 1, 2011.