



915360

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2014	.	
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	.	

The Committee on Criminal Justice (Smith) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (7) of section 893.135,
Florida Statutes, is redesignated as subsection (8), and a new
subsection (7) is added to that section, to read:

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

(7) (a) If a defendant is convicted of a violation of this



915360

11 section, the defendant may move the sentencing court to depart
12 from the 3-year mandatory minimum term of imprisonment and the
13 mandatory fine that would apply to the conviction absent a
14 departure. The state attorney may file an objection to the
15 motion.

16 (b) The court may grant the motion if the court finds that
17 the defendant has demonstrated by a preponderance of the
18 evidence that all of the following criteria are met:

19 1. The defendant has not previously moved to depart from a
20 3-year mandatory minimum term and mandatory fine pursuant to
21 this subsection.

22 2. The defendant's violation of this section would be
23 subject to a 3-year mandatory minimum term and mandatory fine
24 absent a departure.

25 3. The defendant's violation of this section involves
26 possession of one of the following controlled substances or a
27 mixture that contains the controlled substance:

28 a. Cocaine;

29 b. Hydrocodone;

30 c. Oxycodone;

31 d. Any controlled substance as described in paragraph

32 (1) (c);

33 e. Phencyclidine;

34 f. Amphetamine or Methamphetamine;

35 g. Flunitrazepam;

36 h. A phenethylamine as described in subparagraph (1) (k) 1.;

37 or

38 i. Lysergic acid diethylamide (LSD).

39 4. The defendant did not possess the controlled substance



915360

40 or mixture containing the controlled substance with the intent
41 to sell, manufacture, or deliver the substance or mixture.

42 5. The defendant did not obtain the controlled substance or
43 mixture containing the controlled substance by using a minor to
44 obtain the substance or mixture.

45 6. In committing the violation of this section, the
46 defendant did not possess or threaten to use a firearm or deadly
47 weapon, or threaten to use or use physical force against another
48 person.

49 7. The defendant does not have a previous conviction,
50 adjudication of delinquency, or withhold of adjudication of
51 guilt for a violation this section.

52 8. The defendant does not have a previous conviction,
53 adjudication of delinquency, or withhold of adjudication of
54 guilt for a violation of s. 893.13 which involved the sale,
55 manufacture, or delivery of a controlled substance, or the
56 possession with intent to sell, manufacture, or deliver a
57 controlled substance.

58 9. The defendant is amenable to substance abuse treatment
59 if the court determines that he or she is in need of such
60 treatment.

61 Section 2. This act shall take effect July 1, 2014.

62

63 ===== T I T L E A M E N D M E N T =====

64 And the title is amended as follows:

65 Delete everything before the enacting clause
66 and insert:

67 A bill to be entitled

68 An act relating to controlled substances; amending s.



915360

69 893.135, F.S.; authorizing a defendant to move to
70 depart from the mandatory term of imprisonment for a
71 drug trafficking violation; authorizing the state
72 attorney to file an objection to the motion;
73 authorizing the sentencing court to grant the motion
74 if the court finds that the defendant has demonstrated
75 by a preponderance of the evidence that specified
76 criteria are met; providing an effective date.