

A bill to be entitled

An act relating to cannabis; creating s. 893.131, F.S., defining the term "cannabis"; providing legislative findings and intent; creating an affirmative defense for specified controlled substance offenses; creating an affirmative defense for specified drug paraphernalia offenses; amending s. 943.0585, F.S.; providing that a person is eligible to apply for and receive a certificate of eligibility for expunction, notwithstanding certain eligibility requirements, if the person is found not guilty at trial of an offense for which the person raised an affirmative defense pursuant to s. 893.131, F.S.; providing an appropriation to the Department of Health for research of cannabidiol and its effect on intractable childhood epilepsy; specifying how biomedical research funding for research of cannabidiol and its effect on intractable childhood epilepsy shall be awarded; specifying who may apply for such funding; providing effective dates.

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

Section 1. Section 893.131, Florida Statutes, is created to read:

893.131 Affirmative defense to prohibited acts.-

27 (1) As used in this section, the term "cannabis" means a
28 plant of the genus *Cannabis*, the dried flowers of which contain
29 0.8 percent or less of tetrahydrocannabinol and more than 10
30 percent of cannabidiol weight for weight; the seeds thereof; the
31 resin extracted from any part of such plant; or any compound,
32 manufacture, salt, derivative, mixture, or preparation of such
33 plant or its seeds or resin.

34 (2) (a) The Legislature finds that research has shown that
35 cannabis has significant health benefits to individuals
36 suffering from medical conditions, such as seizure disorders
37 among children, when ingested in a nonsmoking manner.

38 (b) The Legislature intends to discourage law enforcement
39 from arresting, and state attorneys from prosecuting, persons
40 who commit violations of s. 893.13 and s. 893.147 when the
41 violation only involves cannabis.

42 (3) It is an affirmative defense to a prosecution under s.
43 893.13(1)-(6), (7) (a)1., and (7) (a)4. and s. 893.135(1) that:

44 (a) Cannabis was the only controlled substance involved in
45 the violation.

46 (b) The person committing the offense intended that the
47 cannabis be consumed in a nonsmoking manner.

48 (c) The person committing the offense intended that the
49 cannabis be consumed by a person under the supervision of a
50 physician licensed under chapter 458 or chapter 459.

51 (4) It is an affirmative defense to a prosecution under s.
52 893.147 that the person committing the offense intended that the

53 drug paraphernalia involved in the offense was intended to only
54 be used to:

55 (a) Plant, propagate, cultivate, grow, harvest,
56 manufacture, compound, convert, produce, process, prepare, test,
57 analyze, pack, repack, store, or contain, cannabis; or

58 (b) Introduce cannabis into the human body in a nonsmoking
59 manner.

60 Section 2. Subsection (5) of section 943.0585, Florida
61 Statutes, is renumbered as subsection (6), and a new subsection
62 (5) is added to that section, to read:

63 943.0585 Court-ordered expunction of criminal history
64 records.—The courts of this state have jurisdiction over their
65 own procedures, including the maintenance, expunction, and
66 correction of judicial records containing criminal history
67 information to the extent such procedures are not inconsistent
68 with the conditions, responsibilities, and duties established by
69 this section. Any court of competent jurisdiction may order a
70 criminal justice agency to expunge the criminal history record
71 of a minor or an adult who complies with the requirements of
72 this section. The court shall not order a criminal justice
73 agency to expunge a criminal history record until the person
74 seeking to expunge a criminal history record has applied for and
75 received a certificate of eligibility for expunction pursuant to
76 subsection (2). A criminal history record that relates to a
77 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
78 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.

79 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
80 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
81 any violation specified as a predicate offense for registration
82 as a sexual predator pursuant to s. 775.21, without regard to
83 whether that offense alone is sufficient to require such
84 registration, or for registration as a sexual offender pursuant
85 to s. 943.0435, may not be expunged, without regard to whether
86 adjudication was withheld, if the defendant was found guilty of
87 or pled guilty or nolo contendere to the offense, or if the
88 defendant, as a minor, was found to have committed, or pled
89 guilty or nolo contendere to committing, the offense as a
90 delinquent act. The court may only order expunction of a
91 criminal history record pertaining to one arrest or one incident
92 of alleged criminal activity, except as provided in this
93 section. The court may, at its sole discretion, order the
94 expunction of a criminal history record pertaining to more than
95 one arrest if the additional arrests directly relate to the
96 original arrest. If the court intends to order the expunction of
97 records pertaining to such additional arrests, such intent must
98 be specified in the order. A criminal justice agency may not
99 expunge any record pertaining to such additional arrests if the
100 order to expunge does not articulate the intention of the court
101 to expunge a record pertaining to more than one arrest. This
102 section does not prevent the court from ordering the expunction
103 of only a portion of a criminal history record pertaining to one
104 arrest or one incident of alleged criminal activity.

105 Notwithstanding any law to the contrary, a criminal justice
106 agency may comply with laws, court orders, and official requests
107 of other jurisdictions relating to expunction, correction, or
108 confidential handling of criminal history records or information
109 derived therefrom. This section does not confer any right to the
110 expunction of any criminal history record, and any request for
111 expunction of a criminal history record may be denied at the
112 sole discretion of the court.

113 (5) Notwithstanding the eligibility requirements in
114 subparagraph (2)(a)2., a person is eligible to apply for and
115 receive a certificate of eligibility for expunction if the
116 person is found not guilty at trial of an offense for which the
117 person successfully raised an affirmative defense pursuant to s.
118 893.131. A person applying for a certificate of eligibility
119 pursuant to this subsection must obtain and submit to the
120 department a written, certified statement from the appropriate
121 state attorney or statewide prosecutor that indicates that the
122 person was found not guilty at trial of an offense for which the
123 person successfully raised an affirmative defense pursuant to s.
124 893.131. This subsection does not confer any right to the
125 expunction of a criminal history record, and any request for
126 expunction of a criminal history record may be denied at the
127 discretion of the court.

128 Section 3. (1) As used in this section, the term
129 "cannabidiol" means an extract from the cannabis plant that has
130 less than 0.8 percent tetrahydrocannabinol and the chemical

131 signature 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-
132 5-pentylbenzene-1,3-diol, or a derivative thereof, as determined
133 by the International Union of Pure and Applied Chemistry.

134 (2) For the 2014-2015 fiscal year, \$1 million in
135 nonrecurring general revenue is appropriated to the Department
136 of Health for the James and Esther King Biomedical Research
137 Program and shall be deposited into the Biomedical Research
138 Trust Fund. These funds shall be reserved for research of
139 cannabidiol and its effect on intractable childhood epilepsy.

140 (3) Biomedical research funding for research of
141 cannabidiol and its effect on intractable childhood epilepsy
142 shall be awarded pursuant to s. 215.5602, Florida Statutes,
143 except as otherwise provided in this section. An application for
144 such funding may be submitted by any research university in the
145 state that has obtained approval from the United States Food and
146 Drug Administration for an exploratory investigational new drug
147 study of cannabidiol and its effect on intractable childhood
148 epilepsy. For the purposes of this section, the Biomedical
149 Research Advisory Council created under s. 215.5602, Florida
150 Statutes, shall advise the State Surgeon General as to the
151 direction and scope of research of cannabidiol and its effect on
152 intractable childhood epilepsy and the award of research
153 funding.

154 (4) This section shall take effect July 1, 2014, and
155 expires June 30, 2015.

156 Section 4. Except as otherwise expressly provided in this

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157 | act, this act shall take effect upon becoming a law. |