

By Senator Baxley

12-00489-18

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1                   A bill to be entitled  
2           An act relating to defrauding or attempting to defraud  
3           drug tests; amending s. 817.565, F.S.; defining the  
4           term "adulterant"; prohibiting a person from  
5           defrauding or attempting to defraud a certain hair  
6           follicle test; prohibiting a person from giving away  
7           or transporting into this state a substance or device  
8           that is used with intent to defraud or in attempts to  
9           defraud a lawfully administered hair follicle test  
10          designed to detect the presence of chemical substances  
11          or controlled substances; creating enhanced criminal  
12          penalties; creating a presumption of intent to defraud  
13          or attempt to defraud under certain circumstances;  
14          providing an effective date.

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

17  
18           Section 1. Section 817.565, Florida Statutes, is amended to  
19           read:

20           817.565 Chemical and controlled substance ~~Urine testing,~~  
21           fraudulent practices; penalties; presumption.-

22           (1) As used in this section, the term "adulterant" means a  
23           substance that is not expected to be in human urine or a  
24           substance expected to be present in human urine but which is at  
25           a concentration higher than that which is consistent with human  
26           urine, including, but not limited to, any of the following:

27           (a) Bleach.

28           (b) Chromium.

29           (c) Creatinine.

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30 (d) Detergent.

31 (e) Glutaraldehyde.

32 (f) Glutaraldehyde/squalene.

33 (g) Hydrochloric acid.

34 (h) Hydroiodic acid.

35 (i) Iodine.

36 (j) Nitrite.

37 (k) Peroxidase.

38 (l) Potassium dichromate.

39 (m) Potassium nitrite.

40 (n) Pyridinium chlorochromate.

41 (o) Sodium nitrite.

42 (2) A person may not ~~It is unlawful for any person:~~

43 ~~(a)~~ willfully ~~to~~ defraud or attempt to defraud a any  
 44 lawfully administered urine or hair follicle test designed to  
 45 detect the presence of chemical substances or controlled  
 46 substances. A person who violates this subsection commits a  
 47 misdemeanor of the first degree, punishable as provided in s.  
 48 775.082 or s. 775.083.

49 (3)~~(b)~~ A person may not willfully ~~to~~ manufacture,  
 50 advertise, sell, give away, ~~or~~ distribute, or transport into  
 51 this state a ~~any~~ substance, including an adulterant, a drug  
 52 masking product, or synthetic or human urine, or device that  
 53 which is used with intent ~~intended~~ to defraud or in attempt to  
 54 defraud a any lawfully administered urine or hair follicle test  
 55 designed to detect the presence of chemical substances or  
 56 controlled substances. A person who violates this subsection  
 57 commits a misdemeanor of the first degree, punishable as  
 58 provided in s. 775.082 or s. 775.083. A person who is convicted

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59 under this subsection and violates this subsection a second or  
60 subsequent time commits a felony of the third degree, punishable  
61 as provided in s. 775.082, s. 775.083, or s. 775.084.

62 (4) Intent to defraud or attempt to defraud a lawfully  
63 administered urine or hair follicle test under this section is  
64 presumed if:

65 (a) A heating element or any other device used to thwart  
66 the test accompanies the transporting into this state,  
67 advertising, sale, giving away, or distribution of the substance  
68 or device; or

69 (b) Instructions that provide a method for thwarting the  
70 test accompany the transporting into this state, advertising,  
71 sale, giving away, or distribution of the substance or device.

72 ~~(2) Any person who violates the provisions of this section~~  
73 ~~is guilty of a misdemeanor of the first degree, punishable as~~  
74 ~~provided in s. 775.082 or s. 775.083.~~

75 Section 2. This act shall take effect October 1, 2018.