

FOR CONSIDERATION By the Committee on Criminal Justice

591-02860-19

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.03, F.S.; adding to Schedule V of the controlled
4 substances list certain drug products in their
5 finished dosage formulations which are approved by the
6 United States Food and Drug Administration; reenacting
7 ss. 817.563(2), 831.31, 893.07(5)(b), and
8 893.13(1)(a), (2)(a), (5)(c), and (6)(d), F.S.,
9 relating to controlled substances named or described
10 in s. 893.03, F.S.; the sale, manufacture, delivery,
11 or possession, with intent to sell, manufacture, or
12 deliver, of counterfeit controlled substances;
13 required reporting of certain theft or significant
14 loss of controlled substances; and prohibited acts and
15 penalties relating to controlled substances,
16 respectively, to incorporate the amendment made to s.
17 893.03, F.S., in references thereto; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (5) of section 893.03, Florida
23 Statutes, is amended to read:

24 893.03 Standards and schedules.—The substances enumerated
25 in this section are controlled by this chapter. The controlled
26 substances listed or to be listed in Schedules I, II, III, IV,
27 and V are included by whatever official, common, usual,
28 chemical, trade name, or class designated. The provisions of
29 this section shall not be construed to include within any of the

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30 schedules contained in this section any excluded drugs listed
31 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
32 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
33 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
34 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
35 Anabolic Steroid Products."

36 (5) SCHEDULE V.—A substance, compound, mixture, or
37 preparation of a substance in Schedule V has a low potential for
38 abuse relative to the substances in Schedule IV and has a
39 currently accepted medical use in treatment in the United
40 States, and abuse of such compound, mixture, or preparation may
41 lead to limited physical or psychological dependence relative to
42 the substances in Schedule IV.

43 (a) Substances controlled in Schedule V include any
44 compound, mixture, or preparation containing any of the
45 following limited quantities of controlled substances, which
46 must include one or more active medicinal ingredients that are
47 not controlled substances in sufficient proportion to confer
48 upon the compound, mixture, or preparation valuable medicinal
49 qualities other than those possessed by the controlled substance
50 alone:

51 1. Not more than 200 milligrams of codeine per 100
52 milliliters or per 100 grams.

53 2. Not more than 100 milligrams of dihydrocodeine per 100
54 milliliters or per 100 grams.

55 3. Not more than 100 milligrams of ethylmorphine per 100
56 milliliters or per 100 grams.

57 4. Not more than 2.5 milligrams of diphenoxylate and not
58 less than 25 micrograms of atropine sulfate per dosage unit.

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59 5. Not more than 100 milligrams of opium per 100
60 milliliters or per 100 grams.

61 6. Not more than 0.5 milligrams of difenoxin and not less
62 than 25 micrograms of atropine sulfate per dosage unit.

63 (b) Unless a specific exception exists or unless listed in
64 another schedule, any material, compound, mixture, or
65 preparation that contains any quantity of the following
66 substances is controlled in Schedule V:

- 67 1. Brivaracetam.
- 68 2. Ezogabine.
- 69 3. Lacosamide.
- 70 4. Pregabalin.

71 (c) Stimulants. Unless specifically excepted or unless
72 listed in another schedule, any material, compound, mixture, or
73 preparation which contains any quantity of the following
74 substances having a stimulant effect on the central nervous
75 system, including its salts, isomers, and salts of isomers:
76 Pyrovalerone.

77 (d) A drug product in finished dosage formulation which has
78 been approved by the United States Food and Drug Administration
79 and which contains cannabidiol (2-[1R-3-methyl-6R-(1-
80 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)
81 derived from cannabis and not more than 0.1 percent (w/w)
82 residual tetrahydrocannabinols.

83 Section 2. For the purpose of incorporating the amendment
84 made by this act to section 893.03, Florida Statutes, in a
85 reference thereto, subsection (2) of section 817.563, Florida
86 Statutes, is reenacted to read:

87 817.563 Controlled substance named or described in s.

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88 893.03; sale of substance in lieu thereof.—It is unlawful for
89 any person to agree, consent, or in any manner offer to
90 unlawfully sell to any person a controlled substance named or
91 described in s. 893.03 and then sell to such person any other
92 substance in lieu of such controlled substance. Any person who
93 violates this section with respect to:

94 (2) A controlled substance named or described in s.
95 893.03(5) is guilty of a misdemeanor of the second degree,
96 punishable as provided in s. 775.082 or s. 775.083.

97 Section 3. For the purpose of incorporating the amendment
98 made by this act to section 893.03, Florida Statutes, in
99 references thereto, section 831.31, Florida Statutes, is
100 reenacted to read:

101 831.31 Counterfeit controlled substance; sale, manufacture,
102 delivery, or possession with intent to sell, manufacture, or
103 deliver.—

104 (1) It is unlawful for any person to sell, manufacture, or
105 deliver, or to possess with intent to sell, manufacture, or
106 deliver, a counterfeit controlled substance. Any person who
107 violates this subsection with respect to:

108 (a) A controlled substance named or described in s.
109 893.03(1), (2), (3), or (4) is guilty of a felony of the third
110 degree, punishable as provided in s. 775.082, s. 775.083, or s.
111 775.084.

112 (b) A controlled substance named or described in s.
113 893.03(5) is guilty of a misdemeanor of the second degree,
114 punishable as provided in s. 775.082 or s. 775.083.

115 (2) For purposes of this section, "counterfeit controlled
116 substance" means:

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117 (a) A controlled substance named or described in s. 893.03
118 which, or the container or labeling of which, without
119 authorization bears the trademark, trade name, or other
120 identifying mark, imprint, or number, or any likeness thereof,
121 of a manufacturer other than the person who in fact manufactured
122 the controlled substance; or

123 (b) Any substance which is falsely identified as a
124 controlled substance named or described in s. 893.03.

125 Section 4. For the purpose of incorporating the amendment
126 made by this act to section 893.03, Florida Statutes, in a
127 reference thereto, paragraph (b) of subsection (5) of section
128 893.07, Florida Statutes, is reenacted to read:

129 893.07 Records.—

130 (5) Each person described in subsection (1) shall:

131 (b) In the event of the discovery of the theft or
132 significant loss of controlled substances, report such theft or
133 significant loss to the sheriff of that county within 24 hours
134 after discovery. A person who fails to report a theft or
135 significant loss of a substance listed in s. 893.03(3), (4), or
136 (5) within 24 hours after discovery as required in this
137 paragraph commits a misdemeanor of the second degree, punishable
138 as provided in s. 775.082 or s. 775.083. A person who fails to
139 report a theft or significant loss of a substance listed in s.
140 893.03(2) within 24 hours after discovery as required in this
141 paragraph commits a misdemeanor of the first degree, punishable
142 as provided in s. 775.082 or s. 775.083.

143 Section 5. For the purpose of incorporating the amendment
144 made by this act to section 893.03, Florida Statutes, in
145 references thereto, paragraph (a) of subsection (1), paragraph

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146 (a) of subsection (2), paragraph (c) of subsection (5), and
147 paragraph (d) of subsection (6) of section 893.13, Florida
148 Statutes, are reenacted to read:

149 893.13 Prohibited acts; penalties.—

150 (1) (a) Except as authorized by this chapter and chapter
151 499, a person may not sell, manufacture, or deliver, or possess
152 with intent to sell, manufacture, or deliver, a controlled
153 substance. A person who violates this provision with respect to:

154 1. A controlled substance named or described in s.
155 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5.
156 commits a felony of the second degree, punishable as provided in
157 s. 775.082, s. 775.083, or s. 775.084.

158 2. A controlled substance named or described in s.
159 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7.,
160 (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) commits a felony of
161 the third degree, punishable as provided in s. 775.082, s.
162 775.083, or s. 775.084.

163 3. A controlled substance named or described in s.
164 893.03(5) commits a misdemeanor of the first degree, punishable
165 as provided in s. 775.082 or s. 775.083.

166 (2) (a) Except as authorized by this chapter and chapter
167 499, a person may not purchase, or possess with intent to
168 purchase, a controlled substance. A person who violates this
169 provision with respect to:

170 1. A controlled substance named or described in s.
171 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5.
172 commits a felony of the second degree, punishable as provided in
173 s. 775.082, s. 775.083, or s. 775.084.

174 2. A controlled substance named or described in s.

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175 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
176 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
177 the third degree, punishable as provided in s. 775.082, s.
178 775.083, or s. 775.084.

179 3. A controlled substance named or described in s.
180 893.03(5) commits a misdemeanor of the first degree, punishable
181 as provided in s. 775.082 or s. 775.083.

182 (5) A person may not bring into this state any controlled
183 substance unless the possession of such controlled substance is
184 authorized by this chapter or unless such person is licensed to
185 do so by the appropriate federal agency. A person who violates
186 this provision with respect to:

187 (c) A controlled substance named or described in s.
188 893.03(5) commits a misdemeanor of the first degree, punishable
189 as provided in s. 775.082 or s. 775.083.

190 (6)

191 (d) If the offense is possession of a controlled substance
192 named or described in s. 893.03(5), the person commits a
193 misdemeanor of the second degree, punishable as provided in s.
194 775.082 or s. 775.083.

195 Section 6. This act shall take effect upon becoming a law.