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CS/HB 7107

2019 Legislature

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 2 An act relating to controlled substances; amending s.
 3 893.02, F.S.; amending the definition of "cannabis";
 4 amending s. 893.03, F.S.; scheduling a certain drug
 5 product containing cannabidiol to Schedule V;
 6 reenacting ss. 817.563(2), 831.31, 893.07(5)(b), and
 7 893.13(1)(a), (2)(a), (5)(c), and (6)(d), F.S.,
 8 relating to controlled substances named or described
 9 in s. 893.03, F.S.; the sale, manufacture, delivery,
 10 or possession, with intent to sell, manufacture, or
 11 deliver, of counterfeit controlled substances;
 12 required reporting of certain theft or significant
 13 loss of controlled substances; and prohibited acts and
 14 penalties relating to controlled substances,
 15 respectively, to incorporate amendments made by the
 16 act; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Subsection (3) of section 893.02, Florida
 21 Statutes, is amended to read:

22 893.02 Definitions.—The following words and phrases as
 23 used in this chapter shall have the following meanings, unless
 24 the context otherwise requires:

25 (3) "Cannabis" means all parts of any plant of the genus

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26 Cannabis, whether growing or not; the seeds thereof; the resin
 27 extracted from any part of the plant; and every compound,
 28 manufacture, salt, derivative, mixture, or preparation of the
 29 plant or its seeds or resin. The term does not include
 30 "marijuana," as defined in s. 381.986, if manufactured,
 31 possessed, sold, purchased, delivered, distributed, or
 32 dispensed, in conformance with s. 381.986. The term does not
 33 include a drug product described in s. 893.03(5)(d).

34 Section 2. Paragraph (d) is added to subsection (5) of
 35 section 893.03, Florida Statutes, to read:

36 893.03 Standards and schedules.—The substances enumerated
 37 in this section are controlled by this chapter. The controlled
 38 substances listed or to be listed in Schedules I, II, III, IV,
 39 and V are included by whatever official, common, usual,
 40 chemical, trade name, or class designated. The provisions of
 41 this section shall not be construed to include within any of the
 42 schedules contained in this section any excluded drugs listed
 43 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 44 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 45 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 46 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 47 Anabolic Steroid Products."

48 (5) SCHEDULE V.—A substance, compound, mixture, or
 49 preparation of a substance in Schedule V has a low potential for
 50 abuse relative to the substances in Schedule IV and has a

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51 | currently accepted medical use in treatment in the United
 52 | States, and abuse of such compound, mixture, or preparation may
 53 | lead to limited physical or psychological dependence relative to
 54 | the substances in Schedule IV.

55 | (d) A drug product in finished dosage formulation that has
 56 | been approved by the United States Food and Drug Administration
 57 | that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-
 58 | 2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from
 59 | cannabis and no more than 0.1 percent (w/w) residual
 60 | tetrahydrocannabinols.

61 | Section 3. For the purpose of incorporating the amendment
 62 | made by this act to section 893.03, Florida Statutes, in a
 63 | reference thereto, subsection (2) of section 817.563, Florida
 64 | Statutes, is reenacted to read:

65 | 817.563 Controlled substance named or described in s.
 66 | 893.03; sale of substance in lieu thereof.—It is unlawful for
 67 | any person to agree, consent, or in any manner offer to
 68 | unlawfully sell to any person a controlled substance named or
 69 | described in s. 893.03 and then sell to such person any other
 70 | substance in lieu of such controlled substance. Any person who
 71 | violates this section with respect to:

72 | (2) A controlled substance named or described in s.
 73 | 893.03(5) is guilty of a misdemeanor of the second degree,
 74 | punishable as provided in s. 775.082 or s. 775.083.

75 | Section 4. For the purpose of incorporating the amendment

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76 | made by this act to section 893.03, Florida Statutes, in
 77 | references thereto, section 831.31, Florida Statutes, is
 78 | reenacted to read:

79 | 831.31 Counterfeit controlled substance; sale,
 80 | manufacture, delivery, or possession with intent to sell,
 81 | manufacture, or deliver.—

82 | (1) It is unlawful for any person to sell, manufacture, or
 83 | deliver, or to possess with intent to sell, manufacture, or
 84 | deliver, a counterfeit controlled substance. Any person who
 85 | violates this subsection with respect to:

86 | (a) A controlled substance named or described in s.
 87 | 893.03(1), (2), (3), or (4) is guilty of a felony of the third
 88 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
 89 | 775.084.

90 | (b) A controlled substance named or described in s.
 91 | 893.03(5) is guilty of a misdemeanor of the second degree,
 92 | punishable as provided in s. 775.082 or s. 775.083.

93 | (2) For purposes of this section, "counterfeit controlled
 94 | substance" means:

95 | (a) A controlled substance named or described in s. 893.03
 96 | which, or the container or labeling of which, without
 97 | authorization bears the trademark, trade name, or other
 98 | identifying mark, imprint, or number, or any likeness thereof,
 99 | of a manufacturer other than the person who in fact manufactured
 100 | the controlled substance; or

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

103 Section 5. For the purpose of incorporating the amendment
104 made by this act to section 893.03, Florida Statutes, in a
105 reference thereto, paragraph (b) of subsection (5) of section
106 893.07, Florida Statutes, is reenacted to read:

107 893.07 Records.—

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

109 (b) In the event of the discovery of the theft or
110 significant loss of controlled substances, report such theft or
111 significant loss to the sheriff of that county within 24 hours
112 after discovery. A person who fails to report a theft or
113 significant loss of a substance listed in s. 893.03(3), (4), or
114 (5) within 24 hours after discovery as required in this
115 paragraph commits a misdemeanor of the second degree, punishable
116 as provided in s. 775.082 or s. 775.083. A person who fails to
117 report a theft or significant loss of a substance listed in s.
118 893.03(2) within 24 hours after discovery as required in this
119 paragraph commits a misdemeanor of the first degree, punishable
120 as provided in s. 775.082 or s. 775.083.

121 Section 6. For the purpose of incorporating the amendment
122 made by this act to section 893.03, Florida Statutes, in
123 references thereto, paragraph (a) of subsection (1), paragraph
124 (a) of subsection (2), paragraph (c) of subsection (5), and
125 paragraph (d) of subsection (6) of section 893.13, Florida

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126 Statutes, are reenacted to read:

127 893.13 Prohibited acts; penalties.—

128 (1) (a) Except as authorized by this chapter and chapter
 129 499, a person may not sell, manufacture, or deliver, or possess
 130 with intent to sell, manufacture, or deliver, a controlled
 131 substance. A person who violates this provision with respect to:

132 1. A controlled substance named or described in s.
 133 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5.
 134 commits a felony of the second degree, punishable as provided in
 135 s. 775.082, s. 775.083, or s. 775.084.

136 2. A controlled substance named or described in s.
 137 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7.,
 138 (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) commits a felony of
 139 the third degree, punishable as provided in s. 775.082, s.
 140 775.083, or s. 775.084.

141 3. A controlled substance named or described in s.
 142 893.03(5) commits a misdemeanor of the first degree, punishable
 143 as provided in s. 775.082 or s. 775.083.

144 (2) (a) Except as authorized by this chapter and chapter
 145 499, a person may not purchase, or possess with intent to
 146 purchase, a controlled substance. A person who violates this
 147 provision with respect to:

148 1. A controlled substance named or described in s.
 149 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5.
 150 commits a felony of the second degree, punishable as provided in

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151 s. 775.082, s. 775.083, or s. 775.084.

152 2. A controlled substance named or described in s.
 153 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
 154 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
 155 the third degree, punishable as provided in s. 775.082, s.
 156 775.083, or s. 775.084.

157 3. A controlled substance named or described in s.
 158 893.03(5) commits a misdemeanor of the first degree, punishable
 159 as provided in s. 775.082 or s. 775.083.

160 (5) A person may not bring into this state any controlled
 161 substance unless the possession of such controlled substance is
 162 authorized by this chapter or unless such person is licensed to
 163 do so by the appropriate federal agency. A person who violates
 164 this provision with respect to:

165 (c) A controlled substance named or described in s.
 166 893.03(5) commits a misdemeanor of the first degree, punishable
 167 as provided in s. 775.082 or s. 775.083.

168 (6)

169 (d) If the offense is possession of a controlled substance
 170 named or described in s. 893.03(5), the person commits a
 171 misdemeanor of the second degree, punishable as provided in s.
 172 775.082 or s. 775.083.

173 Section 7. This act shall take effect upon becoming a law.