

By Senator Brandes

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1 A bill to be entitled
2 An act relating to mandatory sentences; amending s.
3 893.135, F.S.; authorizing a court to impose a
4 sentence other than a mandatory minimum term of
5 imprisonment and mandatory fine for a person convicted
6 of trafficking if the court makes certain findings on
7 the record; amending s. 893.03, F.S.; conforming a
8 cross-reference; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Present subsections (6) and (7) of section
13 893.135, Florida Statutes, are redesignated as subsections (7)
14 and (8), respectively, and a new subsection (6) is added to that
15 section, to read:

16 893.135 Trafficking; mandatory sentences; suspension or
17 reduction of sentences; conspiracy to engage in trafficking.—

18 (6) Notwithstanding any provision of this section, a court
19 may impose a sentence for a violation of this section other than
20 the mandatory minimum term of imprisonment and mandatory fine if
21 the court finds on the record that all of the following
22 circumstances exist:

23 (a) The person did not engage in a continuing criminal
24 enterprise as defined in s. 893.20(1).

25 (b) The person did not use or threaten violence or use a
26 weapon during the commission of the crime.

27 (c) The person did not cause a death or serious bodily
28 injury.

29 Section 2. Paragraph (c) of subsection (3) of section

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30 893.03, Florida Statutes, is amended to read:

31 893.03 Standards and schedules.—The substances enumerated
32 in this section are controlled by this chapter. The controlled
33 substances listed or to be listed in Schedules I, II, III, IV,
34 and V are included by whatever official, common, usual,
35 chemical, trade name, or class designated. The provisions of
36 this section shall not be construed to include within any of the
37 schedules contained in this section any excluded drugs listed
38 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
39 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
40 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
41 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
42 Anabolic Steroid Products."

43 (3) SCHEDULE III.—A substance in Schedule III has a
44 potential for abuse less than the substances contained in
45 Schedules I and II and has a currently accepted medical use in
46 treatment in the United States, and abuse of the substance may
47 lead to moderate or low physical dependence or high
48 psychological dependence or, in the case of anabolic steroids,
49 may lead to physical damage. The following substances are
50 controlled in Schedule III:

51 (c) Unless specifically excepted or unless listed in
52 another schedule, any material, compound, mixture, or
53 preparation containing limited quantities of any of the
54 following controlled substances or any salts thereof:

55 1. Not more than 1.8 grams of codeine per 100 milliliters
56 or not more than 90 milligrams per dosage unit, with an equal or
57 greater quantity of an isoquinoline alkaloid of opium.

58 2. Not more than 1.8 grams of codeine per 100 milliliters

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59 or not more than 90 milligrams per dosage unit, with recognized
60 therapeutic amounts of one or more active ingredients which are
61 not controlled substances.

62 3. Not more than 300 milligrams of hydrocodone per 100
63 milliliters or not more than 15 milligrams per dosage unit, with
64 a fourfold or greater quantity of an isoquinoline alkaloid of
65 opium.

66 4. Not more than 300 milligrams of hydrocodone per 100
67 milliliters or not more than 15 milligrams per dosage unit, with
68 recognized therapeutic amounts of one or more active ingredients
69 that are not controlled substances.

70 5. Not more than 1.8 grams of dihydrocodeine per 100
71 milliliters or not more than 90 milligrams per dosage unit, with
72 recognized therapeutic amounts of one or more active ingredients
73 which are not controlled substances.

74 6. Not more than 300 milligrams of ethylmorphine per 100
75 milliliters or not more than 15 milligrams per dosage unit, with
76 one or more active, nonnarcotic ingredients in recognized
77 therapeutic amounts.

78 7. Not more than 50 milligrams of morphine per 100
79 milliliters or per 100 grams, with recognized therapeutic
80 amounts of one or more active ingredients which are not
81 controlled substances.

82

83 For purposes of charging a person with a violation of s. 893.135
84 involving any controlled substance described in subparagraph 3.
85 or subparagraph 4., the controlled substance is a Schedule III
86 controlled substance pursuant to this paragraph but the weight
87 of the controlled substance per milliliters or per dosage unit

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88 is not relevant to the charging of a violation of s. 893.135.
89 The weight of the controlled substance shall be determined
90 pursuant to s. 893.135(7) ~~s. 893.135(6)~~.

91 Section 3. This act shall take effect July 1, 2020.