

By Senator Simmons

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.13, F.S.; revising age limitations relating to the
4 use and hire of certain persons and the delivery of
5 controlled substances to certain persons; creating s.
6 893.1355, F.S.; providing for the reclassification of
7 criminal penalties relating to the sale of controlled
8 substances to certain persons; amending s. 893.145,
9 F.S.; expanding the definition of the term "drug
10 paraphernalia"; amending 921.0022, F.S.; providing for
11 application of the severity ranking chart of the
12 Criminal Punishment Code; providing an effective date.

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

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16 Section 1. Subsection (4) of section 893.13, Florida
17 Statutes, is amended to read:

18 893.13 Prohibited acts; penalties.—

19 (4) Except as authorized by this chapter, a person 21 ~~18~~
20 years of age or older may not deliver any controlled substance
21 to a person younger than 21 ~~18~~ years of age, use or hire a
22 person younger than 21 ~~18~~ years of age as an agent or employee
23 in the sale or delivery of such a substance, or use such person
24 to assist in avoiding detection or apprehension for a violation
25 of this chapter. A person who violates this subsection with
26 respect to:

27 (a) A controlled substance named or described in s.
28 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.
29 commits a felony of the first degree, punishable as provided in

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30 s. 775.082, s. 775.083, or s. 775.084.

31 (b) A controlled substance named or described in s.
32 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
33 (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
34 the second degree, punishable as provided in s. 775.082, s.
35 775.083, or s. 775.084.

36 (c) Any other controlled substance, except as lawfully
37 sold, manufactured, or delivered, commits a felony of the third
38 degree, punishable as provided in s. 775.082, s. 775.083, or s.
39 775.084.

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41 Imposition of sentence may not be suspended or deferred, and the
42 person so convicted may not be placed on probation.

43 Section 2. Section 893.1355, Florida Statutes, is created
44 to read:

45 893.1355 Sale of a controlled substance to a person younger
46 than 21 years of age; reclassification.-

47 (1) Whenever a person is charged with committing a
48 violation described in s. 893.13(1)(a) which involves selling,
49 or possessing with intent to sell, a controlled substance to a
50 person younger than 21 years of age, the offense for which the
51 person is charged shall be reclassified as provided in
52 subsection (2).

53 (2) The offense described in subsection (1) shall be
54 reclassified in the following manner:

55 (a) In the case of a misdemeanor of the first degree, the
56 offense is reclassified as a felony of the third degree.

57 (b) In the case of a felony of the third degree, the
58 offense is reclassified as a felony of the second degree.

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59 (c) In the case of a felony of the second degree, the
60 offense is reclassified as a felony of the first degree.

61 (3) For purposes of sentencing under chapter 921, the
62 following offense severity ranking levels apply:

63 (a) An offense that is a misdemeanor of the first degree
64 and that is reclassified under this section as a felony of the
65 third degree is ranked in level 2 of the offense severity
66 ranking chart.

67 (b) A felony offense that is reclassified under this
68 section is ranked one level above the ranking specified in s.
69 921.0022 or s. 921.0023 for the offense committed.

70 Section 3. Paragraph (w) is added to subsection (12) of
71 section 893.145, Florida Statutes, to read:

72 893.145 "Drug paraphernalia" defined.—The term "drug
73 paraphernalia" means all equipment, products, and materials of
74 any kind which are used, intended for use, or designed for use
75 in planting, propagating, cultivating, growing, harvesting,
76 manufacturing, compounding, converting, producing, processing,
77 preparing, testing, analyzing, packaging, repackaging, storing,
78 containing, concealing, transporting, injecting, ingesting,
79 inhaling, or otherwise introducing into the human body a
80 controlled substance in violation of this chapter or s. 877.111.
81 Drug paraphernalia is deemed to be contraband which shall be
82 subject to civil forfeiture. The term includes, but is not
83 limited to:

84 (12) Objects used, intended for use, or designed for use in
85 ingesting, inhaling, or otherwise introducing controlled
86 substances, as described in s. 893.03, or substances described
87 in s. 877.111(1) into the human body, such as:

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88 (w) Vapor-generating electronic devices, as that term is
89 defined in s. 386.203.

90 Section 4. Subsection (2) of section 921.0022, Florida
91 Statutes, is amended to read:

92 921.0022 Criminal Punishment Code; offense severity ranking
93 chart.—

94 (2) The offense severity ranking chart has 10 offense
95 levels, ranked from least severe, which are level 1 offenses, to
96 most severe, which are level 10 offenses, and each felony
97 offense is assigned to a level according to the severity of the
98 offense. For purposes of determining which felony offenses are
99 specifically listed in the offense severity ranking chart and
100 which severity level has been assigned to each of these
101 offenses, the numerical statutory references in the left column
102 of the chart and the felony degree designations in the middle
103 column of the chart are controlling; the language in the right
104 column of the chart is provided solely for descriptive purposes.
105 Reclassification of the degree of the felony through the
106 application of s. 775.0845, s. 775.085, s. 775.0861, s.
107 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, s.
108 893.1355, or any other law that provides an enhanced penalty for
109 a felony offense, to any offense listed in the offense severity
110 ranking chart in this section shall not cause the offense to
111 become unlisted and is not subject to the provisions of s.
112 921.0023.

113 Section 5. This act shall take effect October 1, 2020.