

By Senator Burgess

23-00990A-23

20231226__

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.13, F.S.; providing criminal penalties and a
 4 mandatory minimum term of imprisonment if a person
 5 sells, manufactures, or delivers, or possesses with
 6 intent to sell, manufacture, or deliver, specified
 7 substances or mixtures, and such substance or mixture
 8 has at least one specified attribute; amending s.
 9 893.135, F.S.; providing enhanced criminal penalties
 10 and a mandatory minimum term of imprisonment if a
 11 person commits specified prohibited acts relating to
 12 controlled substances, and such substance or mixture
 13 has at least one specified attribute; providing an
 14 effective date.

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

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 18 Section 1. Paragraph (i) is added to subsection (1) of
 19 section 893.13, Florida Statutes, to read:

20 893.13 Prohibited acts; penalties.—

21 (1)

22 (i) Except as authorized by this chapter, a person commits
 23 a felony of the first degree, punishable as provided in s.
 24 775.082, s. 775.083, or s. 775.084, with a mandatory minimum
 25 term of imprisonment of 3 years, if the person:

26 1. Sells, manufactures, or delivers, or possesses with
 27 intent to sell, manufacture, or deliver, any of the following:

28 a. Alfentanil, as described in s. 893.03(2)(b)1.;

29 b. Carfentanil, as described in s. 893.03(2)(b)6.;

23-00990A-23

20231226__

30 c. Fentanyl, as described in s. 893.03(2)(b)9.;

31 d. Sufentanil, as described in s. 893.03(2)(b)30.;

32 e. A fentanyl derivative, as described in s.

33 893.03(1)(a)62.;

34 f. A controlled substance analog, as described in s.

35 893.0356, of any substance described in sub-subparagraphs a.-e.;

36 or

37 g. A mixture containing any substance described in sub-
38 subparagraphs a.-f.; and

39 2. The substance or mixture listed in subparagraph 1. is in
40 a form that resembles, or is mixed, granulated, absorbed, spray-
41 dried, or aerosolized as or onto, coated on, in whole or in
42 part, or solubilized with or into, a product, when such product
43 or its packaging further has at least one of the following
44 attributes:

45 a. Resembles the trade dress of a consumer food product,
46 branded food product, or logo food product;

47 b. Incorporates an actual or fake registered trademark,
48 service mark, or copyright;

49 c. Resembles cereal, candy, a vitamin, a gummy, or a
50 chewable product, such as a gum or gelatin-based product; or

51 d. Contains a cartoon character imprint.

52 Section 2. Paragraph (c) of subsection (1) of section
53 893.135, Florida Statutes, is amended to read:

54 893.135 Trafficking; mandatory sentences; suspension or
55 reduction of sentences; conspiracy to engage in trafficking.—

56 (1) Except as authorized in this chapter or in chapter 499
57 and notwithstanding the provisions of s. 893.13:

58 (c)1. A person who knowingly sells, purchases,

23-00990A-23

20231226__

59 manufactures, delivers, or brings into this state, or who is
60 knowingly in actual or constructive possession of, 4 grams or
61 more of any morphine, opium, hydromorphone, or any salt,
62 derivative, isomer, or salt of an isomer thereof, including
63 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
64 (3)(c)4., or 4 grams or more of any mixture containing any such
65 substance, but less than 30 kilograms of such substance or
66 mixture, commits a felony of the first degree, which felony
67 shall be known as "trafficking in illegal drugs," punishable as
68 provided in s. 775.082, s. 775.083, or s. 775.084. If the
69 quantity involved:

70 a. Is 4 grams or more, but less than 14 grams, such person
71 shall be sentenced to a mandatory minimum term of imprisonment
72 of 3 years and shall be ordered to pay a fine of \$50,000.

73 b. Is 14 grams or more, but less than 28 grams, such person
74 shall be sentenced to a mandatory minimum term of imprisonment
75 of 15 years and shall be ordered to pay a fine of \$100,000.

76 c. Is 28 grams or more, but less than 30 kilograms, such
77 person shall be sentenced to a mandatory minimum term of
78 imprisonment of 25 years and shall be ordered to pay a fine of
79 \$500,000.

80 2. A person who knowingly sells, purchases, manufactures,
81 delivers, or brings into this state, or who is knowingly in
82 actual or constructive possession of, 28 grams or more of
83 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
84 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
85 grams or more of any mixture containing any such substance,
86 commits a felony of the first degree, which felony shall be
87 known as "trafficking in hydrocodone," punishable as provided in

23-00990A-23

20231226__

88 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

89 a. Is 28 grams or more, but less than 50 grams, such person
90 shall be sentenced to a mandatory minimum term of imprisonment
91 of 3 years and shall be ordered to pay a fine of \$50,000.

92 b. Is 50 grams or more, but less than 100 grams, such
93 person shall be sentenced to a mandatory minimum term of
94 imprisonment of 7 years and shall be ordered to pay a fine of
95 \$100,000.

96 c. Is 100 grams or more, but less than 300 grams, such
97 person shall be sentenced to a mandatory minimum term of
98 imprisonment of 15 years and shall be ordered to pay a fine of
99 \$500,000.

100 d. Is 300 grams or more, but less than 30 kilograms, such
101 person shall be sentenced to a mandatory minimum term of
102 imprisonment of 25 years and shall be ordered to pay a fine of
103 \$750,000.

104 3. A person who knowingly sells, purchases, manufactures,
105 delivers, or brings into this state, or who is knowingly in
106 actual or constructive possession of, 7 grams or more of
107 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
108 thereof, or 7 grams or more of any mixture containing any such
109 substance, commits a felony of the first degree, which felony
110 shall be known as "trafficking in oxycodone," punishable as
111 provided in s. 775.082, s. 775.083, or s. 775.084. If the
112 quantity involved:

113 a. Is 7 grams or more, but less than 14 grams, such person
114 shall be sentenced to a mandatory minimum term of imprisonment
115 of 3 years and shall be ordered to pay a fine of \$50,000.

116 b. Is 14 grams or more, but less than 25 grams, such person

23-00990A-23

20231226__

117 shall be sentenced to a mandatory minimum term of imprisonment
118 of 7 years and shall be ordered to pay a fine of \$100,000.

119 c. Is 25 grams or more, but less than 100 grams, such
120 person shall be sentenced to a mandatory minimum term of
121 imprisonment of 15 years and shall be ordered to pay a fine of
122 \$500,000.

123 d. Is 100 grams or more, but less than 30 kilograms, such
124 person shall be sentenced to a mandatory minimum term of
125 imprisonment of 25 years and shall be ordered to pay a fine of
126 \$750,000.

127 4.a. A person who knowingly sells, purchases, manufactures,
128 delivers, or brings into this state, or who is knowingly in
129 actual or constructive possession of, 4 grams or more of:

130 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

131 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

132 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

133 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

134 (V) A fentanyl derivative, as described in s.

135 893.03(1)(a)62.;

136 (VI) A controlled substance analog, as described in s.
137 893.0356, of any substance described in sub-sub-subparagraphs
138 (I)-(V); or

139 (VII) A mixture containing any substance described in sub-
140 sub-subparagraphs (I)-(VI),

141
142 commits a felony of the first degree, which felony shall be
143 known as "trafficking in dangerous fentanyl or fentanyl
144 analogues," punishable as provided in s. 775.082, s. 775.083, or
145 s. 775.084.

23-00990A-23

20231226__

146 b. If the quantity involved under sub-subparagraph a.:

147 (I) Is 4 grams or more, but less than 14 grams, such person
148 shall be sentenced to a mandatory minimum term of imprisonment
149 of 7 years, and shall be ordered to pay a fine of \$50,000.

150 (II) Is 14 grams or more, but less than 28 grams, such
151 person shall be sentenced to a mandatory minimum term of
152 imprisonment of 20 years, and shall be ordered to pay a fine of
153 \$100,000.

154 (III) Is 28 grams or more, such person shall be sentenced
155 to a mandatory minimum term of imprisonment of 25 years, and
156 shall be ordered to pay a fine of \$500,000.

157 c. A person who violates sub-subparagraph a. shall be
158 sentenced to a mandatory minimum term of imprisonment of not
159 less than 25 years and not exceeding life imprisonment and shall
160 be ordered to pay a fine of \$750,000 if the substance or mixture
161 listed in sub-subparagraph a. is in a form that resembles, or is
162 mixed, granulated, absorbed, spray-dried, or aerosolized as or
163 onto, coated on, in whole or in part, or solubilized with or
164 into, a product, when such product or its packaging further has
165 at least one of the following attributes:

166 (I) Resembles the trade dress of a consumer food product,
167 branded food product, or logo food product;

168 (II) Incorporates an actual or fake registered trademark,
169 service mark, or copyright;

170 (III) Resembles cereal, candy, a vitamin, a gummy, or a
171 chewable product, such as a gum or gelatin-based product; or

172 (IV) Contains a cartoon character imprint.

173 5. A person who knowingly sells, purchases, manufactures,
174 delivers, or brings into this state, or who is knowingly in

23-00990A-23

20231226__

175 actual or constructive possession of, 30 kilograms or more of
176 any morphine, opium, oxycodone, hydrocodone, codeine,
177 hydromorphone, or any salt, derivative, isomer, or salt of an
178 isomer thereof, including heroin, as described in s.
179 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
180 more of any mixture containing any such substance, commits the
181 first degree felony of trafficking in illegal drugs. A person
182 who has been convicted of the first degree felony of trafficking
183 in illegal drugs under this subparagraph shall be punished by
184 life imprisonment and is ineligible for any form of
185 discretionary early release except pardon or executive clemency
186 or conditional medical release under s. 947.149. However, if the
187 court determines that, in addition to committing any act
188 specified in this paragraph:

189 a. The person intentionally killed an individual or
190 counseled, commanded, induced, procured, or caused the
191 intentional killing of an individual and such killing was the
192 result; or

193 b. The person's conduct in committing that act led to a
194 natural, though not inevitable, lethal result,

195
196 such person commits the capital felony of trafficking in illegal
197 drugs, punishable as provided in ss. 775.082 and 921.142. A
198 person sentenced for a capital felony under this paragraph shall
199 also be sentenced to pay the maximum fine provided under
200 subparagraph 1.

201 6. A person who knowingly brings into this state 60
202 kilograms or more of any morphine, opium, oxycodone,
203 hydrocodone, codeine, hydromorphone, or any salt, derivative,

23-00990A-23

20231226__

204 isomer, or salt of an isomer thereof, including heroin, as
205 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
206 60 kilograms or more of any mixture containing any such
207 substance, and who knows that the probable result of such
208 importation would be the death of a person, commits capital
209 importation of illegal drugs, a capital felony punishable as
210 provided in ss. 775.082 and 921.142. A person sentenced for a
211 capital felony under this paragraph shall also be sentenced to
212 pay the maximum fine provided under subparagraph 1.

213 Section 3. This act shall take effect October 1, 2023.