

By the Appropriations Committee on Criminal and Civil Justice;
the Committee on Criminal Justice; and Senator Burgess

604-03775-23

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.13, F.S.; providing criminal penalties; providing
4 for a mandatory minimum term of imprisonment if a
5 person sells, manufactures, or delivers or possesses
6 with 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 providing for a mandatory minimum term of imprisonment
11 if a person commits specified prohibited acts relating
12 to controlled substances, and such substance or
13 mixture has at least one specified attribute;
14 providing an 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, and must be sentenced to a
25 mandatory minimum term of imprisonment of 3 years, if:

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

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

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

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

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

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

34 893.03(1)(a)62.;

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

36 893.0356, of any substance described in sub-subparagraphs a.-e.;

37 or

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

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

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

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

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

52 d. Contains a cartoon character imprint.

53 Section 2. Paragraph (c) of subsection (1) of section
54 893.135, Florida Statutes, is amended to read:

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

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

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

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

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

77 c. Is 28 grams or more, but less than 30 kilograms, such
78 person shall be sentenced to a mandatory minimum term of
79 imprisonment of 25 years and shall be ordered to pay a fine of
80 \$500,000.

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

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88 known as "trafficking in hydrocodone," punishable as provided in
89 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

93 b. Is 50 grams or more, but less than 100 grams, such
94 person shall be sentenced to a mandatory minimum term of
95 imprisonment of 7 years and shall be ordered to pay a fine of
96 \$100,000.

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

101 d. Is 300 grams or more, but less than 30 kilograms, such
102 person shall be sentenced to a mandatory minimum term of
103 imprisonment of 25 years and shall be ordered to pay a fine of
104 \$750,000.

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

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

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117 b. Is 14 grams or more, but less than 25 grams, such person
118 shall be sentenced to a mandatory minimum term of imprisonment
119 of 7 years and shall be ordered to pay a fine of \$100,000.

120 c. Is 25 grams or more, but less than 100 grams, such
121 person shall be sentenced to a mandatory minimum term of
122 imprisonment of 15 years and shall be ordered to pay a fine of
123 \$500,000.

124 d. Is 100 grams or more, but less than 30 kilograms, such
125 person shall be sentenced to a mandatory minimum term of
126 imprisonment of 25 years and shall be ordered to pay a fine of
127 \$750,000.

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

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

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

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

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

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

136 893.03(1)(a)62.;

137 (VI) A controlled substance analog, as described in s.

138 893.0356, of any substance described in sub-sub-subparagraphs

139 (I)-(V); or

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

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143 commits a felony of the first degree, which felony shall be

144 known as "trafficking in dangerous fentanyl or fentanyl

145 analogues," punishable as provided in s. 775.082, s. 775.083, or

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146 s. 775.084.

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

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

151 (II) Is 14 grams or more, but less than 28 grams, such
152 person shall be sentenced to a mandatory minimum term of
153 imprisonment of 20 years, and shall be ordered to pay a fine of
154 \$100,000.

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

158 c. A person who violates sub-subparagraph a. shall be
159 sentenced to a mandatory minimum term of not less than 25 years
160 and not exceeding life imprisonment, and shall be ordered to pay
161 a fine of \$1 million if the substance or mixture listed in sub-
162 subparagraph a. is in a form that resembles, or is mixed,
163 granulated, absorbed, spray-dried, or aerosolized as or onto,
164 coated on, in whole or in part, or solubilized with or into, a
165 product, when such product or its packaging further has at least
166 one of the following attributes:

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

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

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

173 (IV) Contains a cartoon character imprint.

174 5. A person who knowingly sells, purchases, manufactures,

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

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

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

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

202 6. A person who knowingly brings into this state 60
203 kilograms or more of any morphine, opium, oxycodone,

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

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