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2023 Legislature

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

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

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

21 893.13 Prohibited acts; penalties.—

22 (1)

23 (i) Except as authorized by this chapter, a person commits  
 24 a felony of the first degree, punishable as provided in s.  
 25 775.082, s. 775.083, or s. 775.084, and must be sentenced to a

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26 mandatory minimum term of imprisonment of 3 years, if:  
 27 1. The person sells, manufactures, or delivers, or  
 28 possesses with intent to sell, manufacture, or deliver, any of  
 29 the following:  
 30 a. Alfentanil, as described in s. 893.03(2)(b)1.;  
 31 b. Carfentanil, as described in s. 893.03(2)(b)6.;  
 32 c. Fentanyl, as described in s. 893.03(2)(b)9.;  
 33 d. Sufentanil, as described in s. 893.03(2)(b)30.;  
 34 e. A fentanyl derivative, as described in s.  
 35 893.03(1)(a)62.;  
 36 f. A controlled substance analog, as described in s.  
 37 893.0356, of any substance described in sub-subparagraphs a.-e.;  
 38 or  
 39 g. A mixture containing any substance described in sub-  
 40 subparagraphs a.-f.; and  
 41 2. The substance or mixture listed in subparagraph 1. is  
 42 in a form that resembles, or is mixed, granulated, absorbed,  
 43 spray-dried, or aerosolized as or onto, coated on, in whole or  
 44 in part, or solubilized with or into, a product, when such  
 45 product or its packaging further has at least one of the  
 46 following attributes:  
 47 a. Resembles the trade dress of a branded food product,  
 48 consumer food product, or logo food product;  
 49 b. Incorporates an actual or fake registered copyright,  
 50 service mark, or trademark;

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

53 d. Contains a cartoon character imprint.

54 Section 2. Paragraph (c) of subsection (1) of section  
 55 893.135, Florida Statutes, is amended to read:

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

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

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

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

75 b. Is 14 grams or more, but less than 28 grams, such

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76 | person shall be sentenced to a mandatory minimum term of  
 77 | imprisonment of 15 years and shall be ordered to pay a fine of  
 78 | \$100,000.

79 |       c. Is 28 grams or more, but less than 30 kilograms, such  
 80 | person shall be sentenced to a mandatory minimum term of  
 81 | imprisonment of 25 years and shall be ordered to pay a fine of  
 82 | \$500,000.

83 |       2. A person who knowingly sells, purchases, manufactures,  
 84 | delivers, or brings into this state, or who is knowingly in  
 85 | actual or constructive possession of, 28 grams or more of  
 86 | hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as  
 87 | described in s. 893.03(2)(a)1.g., or any salt thereof, or 28  
 88 | grams or more of any mixture containing any such substance,  
 89 | commits a felony of the first degree, which felony shall be  
 90 | known as "trafficking in hydrocodone," punishable as provided in  
 91 | s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

92 |       a. Is 28 grams or more, but less than 50 grams, such  
 93 | person shall be sentenced to a mandatory minimum term of  
 94 | imprisonment of 3 years and shall be ordered to pay a fine of  
 95 | \$50,000.

96 |       b. Is 50 grams or more, but less than 100 grams, such  
 97 | person shall be sentenced to a mandatory minimum term of  
 98 | imprisonment of 7 years and shall be ordered to pay a fine of  
 99 | \$100,000.

100 |       c. Is 100 grams or more, but less than 300 grams, such

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101 person shall be sentenced to a mandatory minimum term of  
 102 imprisonment of 15 years and shall be ordered to pay a fine of  
 103 \$500,000.

104 d. Is 300 grams or more, but less than 30 kilograms, such  
 105 person shall be sentenced to a mandatory minimum term of  
 106 imprisonment of 25 years and shall be ordered to pay a fine of  
 107 \$750,000.

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

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

120 b. Is 14 grams or more, but less than 25 grams, such  
 121 person shall be sentenced to a mandatory minimum term of  
 122 imprisonment of 7 years and shall be ordered to pay a fine of  
 123 \$100,000.

124 c. Is 25 grams or more, but less than 100 grams, such  
 125 person shall be sentenced to a mandatory minimum term of

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126 imprisonment of 15 years and shall be ordered to pay a fine of  
 127 \$500,000.

128 d. Is 100 grams or more, but less than 30 kilograms, such  
 129 person shall be sentenced to a mandatory minimum term of  
 130 imprisonment of 25 years and shall be ordered to pay a fine of  
 131 \$750,000.

132 4.a. A person who knowingly sells, purchases,  
 133 manufactures, delivers, or brings into this state, or who is  
 134 knowingly in actual or constructive possession of, 4 grams or  
 135 more of:

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

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

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

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

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

141 893.03(1)(a)62.;

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

143 893.0356, of any substance described in sub-sub-subparagraphs

144 (I)-(V); or

145 (VII) A mixture containing any substance described in sub-

146 sub-subparagraphs (I)-(VI),

147

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

149 known as "trafficking in dangerous fentanyl or fentanyl

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

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151 s. 775.084.

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

153 (I) Is 4 grams or more, but less than 14 grams, such  
 154 person shall be sentenced to a mandatory minimum term of  
 155 imprisonment of 7 years, and shall be ordered to pay a fine of  
 156 \$50,000.

157 (II) Is 14 grams or more, but less than 28 grams, such  
 158 person shall be sentenced to a mandatory minimum term of  
 159 imprisonment of 20 years, and shall be ordered to pay a fine of  
 160 \$100,000.

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

164 c. A person 18 years of age or older who violates sub-  
 165 subparagraph a. by knowingly selling or delivering to a minor at  
 166 least 4 grams of a substance or mixture listed in sub-  
 167 subparagraph a. shall be sentenced to a mandatory minimum term  
 168 of not less than 25 years and not exceeding life imprisonment,  
 169 and shall be ordered to pay a fine of \$1 million if the  
 170 substance or mixture listed in sub-subparagraph a. is in a form  
 171 that resembles, or is mixed, granulated, absorbed, spray-dried,  
 172 or aerosolized as or onto, coated on, in whole or in part, or  
 173 solubilized with or into, a product, when such product or its  
 174 packaging further has at least one of the following attributes:

175 (I) Resembles the trade dress of a branded food product,

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- 176 consumer food product, or logo food product;
- 177 (II) Incorporates an actual or fake registered copyright,
- 178 service mark, or trademark;
- 179 (III) Resembles candy, cereal, a gummy, a vitamin, or a
- 180 chewable product, such as a gum or gelatin-based product; or
- 181 (IV) Contains a cartoon character imprint.

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

198 a. The person intentionally killed an individual or  
 199 counseled, commanded, induced, procured, or caused the  
 200 intentional killing of an individual and such killing was the



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201 result; or

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

204  
205 such person commits the capital felony of trafficking in illegal  
206 drugs, punishable as provided in ss. 775.082 and 921.142. A  
207 person sentenced for a capital felony under this paragraph shall  
208 also be sentenced to pay the maximum fine provided under  
209 subparagraph 1.

210       6. A person who knowingly brings into this state 60  
211 kilograms or more of any morphine, opium, oxycodone,  
212 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
213 isomer, or salt of an isomer thereof, including heroin, as  
214 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
215 60 kilograms or more of any mixture containing any such  
216 substance, and who knows that the probable result of such  
217 importation would be the death of a person, commits capital  
218 importation of illegal drugs, a capital felony punishable as  
219 provided in ss. 775.082 and 921.142. A person sentenced for a  
220 capital felony under this paragraph shall also be sentenced to  
221 pay the maximum fine provided under subparagraph 1.

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