

By Senator Rouson

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1 A bill to be entitled
2 An act relating to sentencing; creating s. 893.13501,
3 F.S.; providing legislative intent; providing for the
4 retroactive applicability of s. 893.135, F.S.;
5 requiring the initial sentencing and the resentencing
6 of certain persons who committed certain violations
7 before a specified date which involved trafficking in
8 hydrocodone or codeine; providing criminal penalties
9 for such violations that are subject to an initial
10 sentencing or a resentencing; providing legislative
11 intent; providing for the retroactive applicability of
12 s. 893.135, F.S.; requiring the initial sentencing and
13 the resentencing of certain persons who committed
14 certain violations before a specified date which
15 involved trafficking in oxycodone; providing criminal
16 penalties for such violations that are subject to an
17 initial sentencing or a resentencing; specifying
18 procedures for such resentencing; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Section 893.13501, Florida Statutes, is created
24 to read:

25 893.13501 Retroactive application relating to s. 893.135;
26 legislative intent; sentencing or resentencing for trafficking
27 in hydrocodone, codeine, or oxycodone; penalties; resentencing
28 procedures.-

29 (1) It is the intent of the Legislature to retroactively

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30 apply changes to gram-weight thresholds and ranges and to
31 penalties for trafficking in hydrocodone or codeine which are
32 applicable to offenders who committed these offenses on or after
33 October 1, 2019, the effective date of amendments to s. 893.135
34 by chapter 2019-167, Laws of Florida.

35 (a) If a violation of s. 893.135(1)(c) involving
36 trafficking in hydrocodone, as described in s. 893.03(2)(a)1.k.;
37 trafficking in codeine, as described in s. 893.03(2)(a)1.g.; or
38 trafficking in any salt of hydrocodone or of codeine or any
39 mixture containing any such substance, as described in s.
40 893.03(2)(a)2., was committed before October 1, 2019, and was
41 punishable as a felony of the first degree at the time the
42 violation was committed, the changes must be retroactively
43 applied as provided in this subsection.

44 (b) A person who committed a trafficking violation
45 described in paragraph (a) before October 1, 2019, but who was
46 not sentenced for such violation before October 1, 2023, must be
47 sentenced as provided in paragraph (d).

48 (c) A person who committed a trafficking violation
49 described in paragraph (a) before October 1, 2019, and who is
50 serving a mandatory minimum term of imprisonment for such
51 violation on or after October 1, 2023, must be resentenced as
52 provided in paragraph (d) and in accordance with subsection (3).

53 (d)1. A violation described in paragraph (a) for which the
54 person is to be sentenced or resentenced pursuant to this
55 subsection is a felony of the first degree, punishable as
56 provided in s. 775.082, s. 775.083, or s. 775.084.

57 2. If the quantity of hydrocodone, as described in s.
58 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g.,

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59 any salt thereof, or any mixture containing any such substance
60 involved in the violation of s. 893.135:

61 a. Was 4 grams or more, but less than 28 grams, such person
62 must be sentenced or resentenced as provided in s. 775.082, s.
63 775.083, or s. 775.084.

64 b. Was 28 grams or more, but less than 50 grams, such
65 person must be sentenced or resentenced to a mandatory minimum
66 term of imprisonment of 3 years and ordered to pay a fine of
67 \$50,000.

68 c. Was 50 grams or more, but less than 100 grams, such
69 person must be sentenced or resentenced to a mandatory minimum
70 term of imprisonment of 7 years and ordered to pay a fine of
71 \$100,000.

72 d. Was 100 grams or more, but less than 300 grams, such
73 person must be sentenced or resentenced to a mandatory minimum
74 term of imprisonment of 15 years and ordered to pay a fine of
75 \$500,000.

76 e. Was 300 grams or more, but less than 30 kilograms, such
77 person must be sentenced or resentenced to a mandatory minimum
78 term of imprisonment of 25 years and ordered to pay a fine of
79 \$500,000 if the trafficking involves hydrocodone, any salt
80 thereof, or any mixture containing hydrocodone; or to pay a fine
81 of \$750,000 if the trafficking involves codeine, any salt
82 thereof, or any mixture containing codeine.

83 (2) It is the intent of the Legislature to retroactively
84 apply the changes to gram-weight thresholds and ranges and to
85 penalties for trafficking in oxycodone which are applicable to
86 offenders who committed this offense on or after July 1, 2014,
87 the effective date of amendments to s. 893.135 by chapter 2014-

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88 176, Laws of Florida.

89 (a) If a violation of s. 893.135(1)(c) involving
90 trafficking in oxycodone, as described in s. 893.03(2)(a)1.q.,
91 any salt thereof, or any mixture containing any such substance
92 was committed before July 1, 2014, and was punishable as a
93 felony of the first degree at the time the violation was
94 committed, the changes must be retroactively applied as provided
95 in this subsection.

96 (b) A person who committed a trafficking violation
97 described in paragraph (a) before July 1, 2014, but who was not
98 sentenced for such violation before October 1, 2023, must be
99 sentenced as provided in paragraph (d).

100 (c) A person who committed a trafficking violation
101 described in paragraph (a) before July 1, 2014, and who is
102 -serving a mandatory minimum term of imprisonment for such
103 violation on or after October 1, 2023, must be resentenced as
104 provided in paragraph (d) and in accordance with subsection (3).

105 (d)1. A violation described in paragraph (a) for which the
106 person is to be sentenced or resentenced pursuant to this
107 subsection is a felony of the first degree, punishable as
108 provided in s. 775.082, s. 775.083, or s. 775.084.

109 2. If the quantity of oxycodone, as described in s.
110 893.03(2)(a)1.q., any salt thereof, or any mixture containing
111 any such substance involved in the violation of s. 893.135:

112 a. Was 4 grams or more, but less than 7 grams, such person
113 must be sentenced or resentenced as provided in s. 775.082, s.
114 775.083, or s. 775.084.

115 b. Was 7 grams or more, but less than 14 grams, such person
116 must be sentenced or resentenced to a mandatory minimum term of

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117 imprisonment of 3 years and ordered to pay a fine of \$50,000.

118 c. Was 14 grams or more, but less than 25 grams, such
119 person must be sentenced or resentenced to a mandatory minimum
120 term of imprisonment of 7 years and ordered to pay a fine of
121 \$100,000.

122 d. Was 25 grams or more, but less than 100 grams, such
123 person must be sentenced or resentenced to a mandatory minimum
124 term of imprisonment of 15 years and ordered to pay a fine of
125 \$500,000.

126 e. Was 100 grams or more, but less than 30 kilograms, such
127 person must be sentenced or resentenced to a mandatory minimum
128 term of imprisonment of 25 years and ordered to pay a fine of
129 \$500,000.

130 (3) Resentencing under this section must occur in the
131 following manner:

132 (a) The Department of Corrections shall notify the person
133 described in paragraph (1)(c) or paragraph (2)(c) of his or her
134 eligibility to request a sentence review hearing.

135 (b) The person seeking sentence review under this section
136 may submit an application to the court of original jurisdiction
137 requesting that a sentence review hearing be held. The
138 sentencing court retains original jurisdiction for the duration
139 of the sentence for this purpose.

140 (c) A person eligible for a sentence review hearing under
141 this section is entitled to be represented by counsel, and the
142 court must appoint a public defender to represent the person if
143 he or she cannot afford an attorney.

144 (d) Upon receiving an application from the eligible person,
145 the court of original sentencing jurisdiction shall hold a

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146 sentence review hearing to determine if the eligible person
147 meets the criteria for resentencing under this section. If the
148 court determines at the sentence review hearing that the
149 eligible person meets the criteria in this section for
150 resentencing, the court must resentence the person as provided
151 in this section; however, the new sentence may not exceed the
152 person's original sentence with credit for time served. If the
153 court determines that such person does not meet the criteria for
154 resentencing under this section, the court must provide written
155 reasons why such person does not meet such criteria.

156 Section 2. This act shall take effect October 1, 2023.