

By Senator Brodeur

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1 A bill to be entitled
2 An act relating to controlled substances; amending s.
3 893.03, F.S.; adding tianeptine to the list of
4 Schedule I controlled substances; amending ss. 893.13,
5 893.131, and 893.135, F.S.; conforming cross-
6 references; providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Paragraph (a) of subsection (1) of section
11 893.03, Florida Statutes, is amended to read:

12 893.03 Standards and schedules.—The substances enumerated
13 in this section are controlled by this chapter. The controlled
14 substances listed or to be listed in Schedules I, II, III, IV,
15 and V are included by whatever official, common, usual,
16 chemical, trade name, or class designated. The provisions of
17 this section shall not be construed to include within any of the
18 schedules contained in this section any excluded drugs listed
19 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
20 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
21 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
22 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
23 Anabolic Steroid Products."

24 (1) SCHEDULE I.—A substance in Schedule I has a high
25 potential for abuse and has no currently accepted medical use in
26 treatment in the United States and in its use under medical
27 supervision does not meet accepted safety standards. The
28 following substances are controlled in Schedule I:

29 (a) Unless specifically excepted or unless listed in

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- 30 another schedule, any of the following substances, including
31 their isomers, esters, ethers, salts, and salts of isomers,
32 esters, and ethers, whenever the existence of such isomers,
33 esters, ethers, and salts is possible within the specific
34 chemical designation:
- 35 1. Acetyl-alpha-methylfentanyl.
 - 36 2. Acetylmethadol.
 - 37 3. Allylprodine.
 - 38 4. Alphacetylmethadol (except levo-alphacetylmethadol, also
39 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
40 LAAM).
 - 41 5. Alphamethadol.
 - 42 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)
43 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
44 (N-propanilido) piperidine).
 - 45 7. Alpha-methylthiofentanyl.
 - 46 8. Alphameprodine.
 - 47 9. Benzethidine.
 - 48 10. Benzylfentanyl.
 - 49 11. Betacetylmethadol.
 - 50 12. Beta-hydroxyfentanyl.
 - 51 13. Beta-hydroxy-3-methylfentanyl.
 - 52 14. Betameprodine.
 - 53 15. Betamethadol.
 - 54 16. Betaprodine.
 - 55 17. Clonitazene.
 - 56 18. Dextromoramide.
 - 57 19. Diampromide.
 - 58 20. Diethylthiambutene.

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- 59 21. Difenoxin.
- 60 22. Dimenoxadol.
- 61 23. Dimepheptanol.
- 62 24. Dimethylthiambutene.
- 63 25. Dioxaphetyl butyrate.
- 64 26. Dipipanone.
- 65 27. Ethylmethylthiambutene.
- 66 28. Etonitazene.
- 67 29. Etoxeridine.
- 68 30. Flunitrazepam.
- 69 31. Furethidine.
- 70 32. Hydroxypethidine.
- 71 33. Ketobemidone.
- 72 34. Levomoramide.
- 73 35. Levophenacylmorphan.
- 74 36. Desmethylprodine (1-Methyl-4-Phenyl-4-
- 75 Propionoxypiperidine).
- 76 37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 77 piperidyl]-N-phenylpropanamide).
- 78 38. 3-Methylthiofentanyl.
- 79 39. Morpheridine.
- 80 40. Noracymethadol.
- 81 41. Norlevorphanol.
- 82 42. Normethadone.
- 83 43. Norpipanone.
- 84 44. Para-Fluorofentanyl.
- 85 45. Phenadoxone.
- 86 46. Phenampromide.
- 87 47. Phenomorphan.

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- 88 48. Phenoperidine.
- 89 49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
- 90 Acetyloxypiperidine).
- 91 50. Piritramide.
- 92 51. Proheptazine.
- 93 52. Properidine.
- 94 53. Propiram.
- 95 54. Racemoramide.
- 96 55. Thenylfentanyl.
- 97 56. Thiofentanyl.
- 98 57. Tianeptine.
- 99 58. Tilidine.
- 100 59.~~58.~~ Trimeperidine.
- 101 60.~~59.~~ Acetylfentanyl.
- 102 61.~~60.~~ Butyrylfentanyl.
- 103 62.~~61.~~ Beta-Hydroxythiofentanyl.
- 104 63.~~62.~~ Fentanyl derivatives. Unless specifically excepted,
- 105 listed in another schedule, or contained within a pharmaceutical
- 106 product approved by the United States Food and Drug
- 107 Administration, any material, compound, mixture, or preparation,
- 108 including its salts, isomers, esters, or ethers, and salts of
- 109 isomers, esters, or ethers, whenever the existence of such salts
- 110 is possible within any of the following specific chemical
- 111 designations containing a 4-anilidopiperidine structure:
- 112 a. With or without substitution at the carbonyl of the
- 113 aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl,
- 114 methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl,
- 115 dihydrofuranyl, benzyl moiety, or rings containing heteroatoms
- 116 sulfur, oxygen, or nitrogen;

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- 117 b. With or without substitution at the piperidine amino
118 moiety with a phenethyl, benzyl, alkylaryl (including
119 heteroaromatics), alkyltetrazolyl ring, or an alkyl or
120 carbomethoxy group, whether or not further substituted in the
121 ring or group;
- 122 c. With or without substitution or addition to the
123 piperidine ring to any extent with one or more methyl,
124 carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester
125 groups;
- 126 d. With or without substitution of one or more hydrogen
127 atoms for halogens, or methyl, alkyl, or methoxy groups, in the
128 aromatic ring of the anilide moiety;
- 129 e. With or without substitution at the alpha or beta
130 position of the piperidine ring with alkyl, hydroxyl, or methoxy
131 groups;
- 132 f. With or without substitution of the benzene ring of the
133 anilide moiety for an aromatic heterocycle; and
- 134 g. With or without substitution of the piperidine ring for
135 a pyrrolidine ring, perhydroazepine ring, or azepine ring;
136
137 excluding, Alfentanil, Carfentanil, Fentanyl, and Sufentanil;
138 including, but not limited to:
- 139 (I) Acetyl-alpha-methylfentanyl.
140 (II) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
141 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
142 (N-propanilido) piperidine).
143 (III) Alpha-methylthiofentanyl.
144 (IV) Benzylfentanyl.
145 (V) Beta-hydroxyfentanyl.

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146 (VI) Beta-hydroxy-3-methylfentanyl.
147 (VII) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
148 piperidyl]-N-phenylpropanamide).
149 (VIII) 3-Methylthiofentanyl.
150 (IX) Para-Fluorofentanyl.
151 (X) Thenylfentanyl or Thienyl fentanyl.
152 (XI) Thiofentanyl.
153 (XII) Acetylfentanyl.
154 (XIII) Butyrylfentanyl.
155 (XIV) Beta-Hydroxythiofentanyl.
156 (XV) Lofentanil.
157 (XVI) Ocfentanil.
158 (XVII) Ohmfentanyl.
159 (XVIII) Benzodioxolefentanyl.
160 (XIX) Furanyl fentanyl.
161 (XX) Pentanoyl fentanyl.
162 (XXI) Cyclopentyl fentanyl.
163 (XXII) Isobutyryl fentanyl.
164 (XXIII) Remifentanil.
165 64.63. Nitazene derivatives. Unless specifically excepted,
166 listed in another schedule, or contained within a pharmaceutical
167 product approved by the United States Food and Drug
168 Administration, any material, compound, mixture, or preparation,
169 including its salts, isomers, esters, or ethers, and salts of
170 isomers, esters, or ethers, whenever the existence of such salts
171 is possible within any of the following specific chemical
172 designations containing a benzimidazole ring with an ethylamine
173 substitution at the 1-position and a benzyl ring substitution at
174 the 2-position structure:

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- 175 a. With or without substitution on the benzimidazole ring
176 with alkyl, alkoxy, carboalkoxy, amino, nitro, or aryl groups,
177 or halogens;
- 178 b. With or without substitution at the ethylamine amino
179 moiety with alkyl, dialkyl, acetyl, or benzyl groups, whether or
180 not further substituted in the ring system;
- 181 c. With or without inclusion of the ethylamine amino moiety
182 in a cyclic structure;
- 183 d. With or without substitution of the benzyl ring; or
- 184 e. With or without replacement of the benzyl ring with an
185 aromatic ring, including, but not limited to:
- 186 (I) Butonitazene.
 - 187 (II) Clonitazene.
 - 188 (III) Etodesnitazene.
 - 189 (IV) Etonitazene.
 - 190 (V) Flunitazene.
 - 191 (VI) Isotodesnitazene.
 - 192 (VII) Isotonitazene.
 - 193 (VIII) Metodesnitazene.
 - 194 (IX) Metonitazene.
 - 195 (X) Nitazene.
 - 196 (XI) N-Desethyl Etonitazene.
 - 197 (XII) N-Desethyl Isotonitazene.
 - 198 (XIII) N-Piperidino Etonitazene.
 - 199 (XIV) N-Pyrrolidino Etonitazene.
 - 200 (XV) Protonitazene.
- 201 Section 2. Paragraph (i) of subsection (1) of section
202 893.13, Florida Statutes, is amended to read:
203 893.13 Prohibited acts; penalties.—

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204 (1)

205 (i) Except as authorized by this chapter, a person commits

206 a felony of the first degree, punishable as provided in s.

207 775.082, s. 775.083, or s. 775.084, and must be sentenced to a

208 mandatory minimum term of imprisonment of 3 years, if:

209 1. The person sells, manufactures, or delivers, or

210 possesses with intent to sell, manufacture, or deliver, any of

211 the following:

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

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

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

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

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

217 893.03(1)(a)63. ~~s. 893.03(1)(a)62.~~;

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

219 893.0356, of any substance described in sub-subparagraphs a.-e.;

220 or

221 g. A mixture containing any substance described in sub-

222 subparagraphs a.-f.; and

223 2. The substance or mixture listed in subparagraph 1. is in

224 a form that resembles, or is mixed, granulated, absorbed, spray-

225 dried, or aerosolized as or onto, coated on, in whole or in

226 part, or solubilized with or into, a product, when such product

227 or its packaging further has at least one of the following

228 attributes:

229 a. Resembles the trade dress of a branded food product,

230 consumer food product, or logo food product;

231 b. Incorporates an actual or fake registered copyright,

232 service mark, or trademark;

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233 c. Resembles candy, cereal, a gummy, a vitamin, or a
234 chewable product, such as a gum or gelatin-based product; or
235 d. Contains a cartoon character imprint.

236 Section 3. Paragraph (a) of subsection (2) of section
237 893.131, Florida Statutes, is amended to read:

238 893.131 Distribution of controlled substances resulting in
239 overdose or serious bodily injury.—

240 (2) (a) Except as provided in paragraph (b), a person 18
241 years of age or older who unlawfully distributes:

- 242 1. Heroin, as described in s. 893.03(1)(b)11.;
- 243 2. Alfentanil, as described in s. 893.03(2)(b)1.;
- 244 3. Carfentanil, as described in s. 893.03(2)(b)6.;
- 245 4. Fentanyl, as described in s. 893.03(2)(b)9.;
- 246 5. Sufentanil, as described in s. 893.03(2)(b)30.;
- 247 6. Fentanyl derivatives, as described in s. 893.03(1)(a)63.

248 ~~s. 893.03(1)(a)62.;~~

249 7. A controlled substance analog, as described in s.
250 893.0356, of any substance specified in subparagraphs 1.-6.; or

251 8. A mixture containing any substance specified in
252 subparagraphs 1.-7.,

253
254 and an overdose or serious bodily injury of the user results,
255 commits a felony of the second degree, punishable as provided in
256 s. 775.082, s. 775.083, or s. 775.084, when such substance or
257 mixture is proven to have caused or been a substantial factor in
258 causing the overdose or serious bodily injury of the user.

259 Section 4. Paragraph (c) of subsection (1) of section
260 893.135, Florida Statutes, is amended to read:

261 893.135 Trafficking; mandatory sentences; suspension or

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262 reduction of sentences; conspiracy to engage in trafficking.-

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

265 (c)1. A person who knowingly sells, purchases,
266 manufactures, delivers, or brings into this state, or who is
267 knowingly in actual or constructive possession of, 4 grams or
268 more of any morphine, opium, hydromorphone, or any salt,
269 derivative, isomer, or salt of an isomer thereof, including
270 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
271 (3)(c)4., or 4 grams or more of any mixture containing any such
272 substance, but less than 30 kilograms of such substance or
273 mixture, commits a felony of the first degree, which felony
274 shall be known as "trafficking in illegal drugs," punishable as
275 provided in s. 775.082, s. 775.083, or s. 775.084. If the
276 quantity involved:

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

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

283 c. Is 28 grams or more, but less than 30 kilograms, such
284 person shall be sentenced to a mandatory minimum term of
285 imprisonment of 25 years and shall be ordered to pay a fine of
286 \$500,000.

287 2. A person who knowingly sells, purchases, manufactures,
288 delivers, or brings into this state, or who is knowingly in
289 actual or constructive possession of, 28 grams or more of
290 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as

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291 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
292 grams or more of any mixture containing any such substance,
293 commits a felony of the first degree, which felony shall be
294 known as "trafficking in hydrocodone," punishable as provided in
295 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

299 b. Is 50 grams or more, but less than 100 grams, such
300 person shall be sentenced to a mandatory minimum term of
301 imprisonment of 7 years and shall be ordered to pay a fine of
302 \$100,000.

303 c. Is 100 grams or more, but less than 300 grams, such
304 person shall be sentenced to a mandatory minimum term of
305 imprisonment of 15 years and shall be ordered to pay a fine of
306 \$500,000.

307 d. Is 300 grams or more, but less than 30 kilograms, such
308 person shall be sentenced to a mandatory minimum term of
309 imprisonment of 25 years and shall be ordered to pay a fine of
310 \$750,000.

311 3. A person who knowingly sells, purchases, manufactures,
312 delivers, or brings into this state, or who is knowingly in
313 actual or constructive possession of, 7 grams or more of
314 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
315 thereof, or 7 grams or more of any mixture containing any such
316 substance, commits a felony of the first degree, which felony
317 shall be known as "trafficking in oxycodone," punishable as
318 provided in s. 775.082, s. 775.083, or s. 775.084. If the
319 quantity involved:

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

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

326 c. Is 25 grams or more, but less than 100 grams, such
327 person shall be sentenced to a mandatory minimum term of
328 imprisonment of 15 years and shall be ordered to pay a fine of
329 \$500,000.

330 d. Is 100 grams or more, but less than 30 kilograms, such
331 person shall be sentenced to a mandatory minimum term of
332 imprisonment of 25 years and shall be ordered to pay a fine of
333 \$750,000.

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

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

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

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

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

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

342 893.03(1)(a)63. ~~s. 893.03(1)(a)62.~~;

343 (VI) A controlled substance analog, as described in s.
344 893.0356, of any substance described in sub-sub-subparagraphs
345 (I)-(V); or

346 (VII) A mixture containing any substance described in sub-
347 sub-subparagraphs (I)-(VI),
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349 commits a felony of the first degree, which felony shall be
350 known as "trafficking in dangerous fentanyl or fentanyl
351 analogues," punishable as provided in s. 775.082, s. 775.083, or
352 s. 775.084.

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

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

357 (II) Is 14 grams or more, but less than 28 grams, such
358 person shall be sentenced to a mandatory minimum term of
359 imprisonment of 20 years, and shall be ordered to pay a fine of
360 \$100,000.

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

364 c. A person 18 years of age or older who violates sub-
365 subparagraph a. by knowingly selling or delivering to a minor at
366 least 4 grams of a substance or mixture listed in sub-
367 subparagraph a. shall be sentenced to a mandatory minimum term
368 of not less than 25 years and not exceeding life imprisonment,
369 and shall be ordered to pay a fine of \$1 million if the
370 substance or mixture listed in sub-subparagraph a. is in a form
371 that resembles, or is mixed, granulated, absorbed, spray-dried,
372 or aerosolized as or onto, coated on, in whole or in part, or
373 solubilized with or into, a product, when such product or its
374 packaging further has at least one of the following attributes:

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

377 (II) Incorporates an actual or fake registered copyright,

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378 service mark, or trademark;

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

381 (IV) Contains a cartoon character imprint.

382 5. A person who knowingly sells, purchases, manufactures,
383 delivers, or brings into this state, or who is knowingly in
384 actual or constructive possession of, 30 kilograms or more of
385 any morphine, opium, oxycodone, hydrocodone, codeine,
386 hydromorphone, or any salt, derivative, isomer, or salt of an
387 isomer thereof, including heroin, as described in s.

388 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
389 more of any mixture containing any such substance, commits the
390 first degree felony of trafficking in illegal drugs. A person
391 who has been convicted of the first degree felony of trafficking
392 in illegal drugs under this subparagraph shall be punished by
393 life imprisonment and is ineligible for any form of
394 discretionary early release except pardon or executive clemency
395 or conditional medical release under s. 947.149. However, if the
396 court determines that, in addition to committing any act
397 specified in this paragraph:

398 a. The person intentionally killed an individual or
399 counseled, commanded, induced, procured, or caused the
400 intentional killing of an individual and such killing was the
401 result; or

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

404

405 such person commits the capital felony of trafficking in illegal
406 drugs, punishable as provided in ss. 775.082 and 921.142. A

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407 person sentenced for a capital felony under this paragraph shall
408 also be sentenced to pay the maximum fine provided under
409 subparagraph 1.

410 6. A person who knowingly brings into this state 60
411 kilograms or more of any morphine, opium, oxycodone,
412 hydrocodone, codeine, hydromorphone, or any salt, derivative,
413 isomer, or salt of an isomer thereof, including heroin, as
414 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
415 60 kilograms or more of any mixture containing any such
416 substance, and who knows that the probable result of such
417 importation would be the death of a person, commits capital
418 importation of illegal drugs, a capital felony punishable as
419 provided in ss. 775.082 and 921.142. A person sentenced for a
420 capital felony under this paragraph shall also be sentenced to
421 pay the maximum fine provided under subparagraph 1.

422 Section 5. This act shall take effect July 1, 2024.