

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [CS/CS/HB 309](#)

TITLE: Controlled Substances

SPONSOR(S): Bankson and Plakon

Committee References

[Justice Budget](#)

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SUMMARY

Effect of the Bill:

The bill creates new criminal offenses relating to xylazine and exempts specified xylazine animal drug products from being classified as a Schedule I controlled substance, as long as such products are not for human use. Specifically, the bill:

- Prohibits a person from selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver, specified forms of xylazine that resemble a food product or contain other specified markings, as a first degree felony, and requires a three-year mandatory minimum term of imprisonment.
- Creates a new offense for trafficking in xylazine and prohibits a person from knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession of, 28 grams or more of xylazine, as a first degree felony, and requires mandatory minimum terms of imprisonment and fines, the length and amount of which vary depending upon the amount of xylazine involved in the offense.

Fiscal or Economic Impact:

The bill will have a positive indeterminate impact on prison beds by creating first degree felony offenses related to xylazine and requiring offenders convicted of such offenses to be sentenced to mandatory minimum terms of imprisonment.

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ANALYSIS

EFFECT OF THE BILL:

Xylazine

The bill creates a first degree felony for [selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver, xylazine](#), a xylazine analog, or a mixture containing xylazine, when such substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray-dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:

- Resembles the trade dress of a branded food product, consumer food product, or logo food product;
- Incorporates an actual or fake registered copyright, service mark, or trademark;
- Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product; or
- Contains a cartoon character imprint.

The bill requires an offender convicted of such an offense to be sentenced to a three-year mandatory minimum term of imprisonment. (Section [2](#))

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The bill also creates a first degree felony for trafficking in xylazine if a person knowingly sells, purchases, manufactures, delivers, or brings into this state, or is knowingly in actual or constructive possession of, 28 grams or more of xylazine or any mixture containing xylazine. The bill requires an offender convicted of trafficking in xylazine to be sentenced to a mandatory minimum term of imprisonment and fine, the length and amount of which varies depending on the amount of xylazine involved in the offense, as follows:

- 3 year mandatory minimum sentence, and a \$50,000 fine, if the amount is 28 grams or more, but less than 100 grams.
- 7 year mandatory minimum sentence, and a \$100,000 fine, if the amount is 100 grams or more, but less than 200 grams.
- 25 year mandatory minimum sentence, and a \$500,000 fine, if the amount is 200 grams or more. (Section 3)

The bill also excepts from the list of Schedule I controlled substances xylazine animal drug products that are approved by the United States Food and Drug Administration and the use of which conforms to the approved application or is authorized under 21 U.S.C. s. 360b(a)(4), a federal law relating to animal drug products. The bill specifies that the manufacture, importation, distribution, prescribing, or sale of xylazine for human use is not subject to this exception. (Section 1)

The effective date of Section 1 of the bill is July 1, 2026. (Section 1)

The effective date of Sections 2 and 3 of the bill is October 1, 2026. (Section 4)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill will have a positive indeterminate impact on prison beds by creating new first degree felony offenses related to xylazine and requiring offenders convicted of such offenses to be sentenced to mandatory minimum terms of imprisonment. The Criminal Justice Impact Conference reviewed a similar bill and estimated the bill will have an unquantifiable impact on prison beds.¹

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Controlled Substances

Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, classifies controlled substances² into five categories, called schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed therein. The distinguishing factors between the different controlled substance schedules are the “potential for abuse”³ of the substance and whether there is a currently accepted medical use for the substance.⁴

¹ Florida Office of Economic and Demographic Research, Criminal Justice Impact Conference, 2026 Senate Bill 1750, Feb. 9, 2026, <https://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm> (last visited Feb. 9, 2026).

² “Controlled substance” means any substance named or described in Schedules I-V of s. 893.03, F.S. S. 893.02(4), F.S.

³ “Potential for abuse” means that a substance has properties of a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: 1) used in amounts that create a hazard to the user’s health or safety of the community; 2) diverted from legal channels and distributed through illegal channels; or 3) taken on the user’s own initiative rather than on the basis of professional medical advice. S. 893.02(22), F.S.

⁴ S. 893.03, F.S.

The controlled substance schedules are as follows:

- Schedule I substances have a high potential for abuse and currently have no accepted medical use in the United States and their use under medical supervision does not meet accepted safety standards.⁵
- Schedule II substances have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States, and abuse of the substance may lead to severe psychological or physical dependence.⁶
- Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States, and the abuse of the substance may lead to moderate or low physical dependence or high psychological dependence, or in the case of anabolic steroids, may lead to physical damage.⁷
- Schedule IV substances have a low potential for abuse relative to substances in Schedule III and have a currently accepted medical use in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.⁸
- Schedule V substances, compounds, mixtures, or preparation of substances have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.⁹

Attorney General Emergency Scheduling Authority

The Legislature has delegated to the Florida Attorney General the authority to adopt rules to add a substance to a schedule established under [s. 893.03, F.S.](#), or transfer a substance between schedules, if the substance has the potential for abuse and meets other classification requirements, or to remove a substance previously added to a schedule if it no longer meets the requirements for inclusion in that schedule.¹⁰ Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.¹¹ Any findings and conclusions provided by the U.S. Attorney General with respect to any substance is admissible as evidence in any rulemaking proceeding, including an emergency rulemaking proceeding.¹²

If the Attorney General finds that the scheduling of a substance in Schedule I of [s. 893.03, F.S.](#), on a temporary basis is necessary to avoid an imminent hazard to public safety, he or she may by rule¹³ schedule such substance in Schedule I if the substance is not listed in any other schedule of [s. 893.03, F.S.](#). The Attorney General must consider, with respect to his or her finding of imminent hazard to public safety, only:

- The substance's potential for abuse.¹⁴
- The substance's history and current pattern of abuse.
- The scope, duration, and significance of abuse.
- What, if any, risk there is to the public health.¹⁵
- Diversion from legitimate channels, if any.
- Clandestine importation, manufacture, or distribution.¹⁶

⁵ [S. 893.03\(1\), F.S.](#)

⁶ [S. 893.03\(2\), F.S.](#)

⁷ [S. 893.03\(3\), F.S.](#)

⁸ [S. 893.03\(4\), F.S.](#)

⁹ [S. 893.03\(5\), F.S.](#)

¹⁰ [S. 893.035\(2\), F.S.](#) "Potential for abuse" has the same meaning as provided in [s. 893.02\(22\), F.S.](#)

¹¹ [S. 893.035\(3\)\(a\), F.S.](#)

¹² *Id.*

¹³ In an emergency rulemaking proceeding, the Attorney General may proceed without regard to the requirements to request a medical and scientific evaluation of the substance from and consider recommendations regarding scheduling from the Department of Health and the Department of Law Enforcement. [S. 893.035\(5\)](#) and [\(7\), F.S.](#)

¹⁴ [S. 893.035\(3\)\(a\), F.S.](#)

¹⁵ [S. 893.035\(4\)\(d-f\), F.S.](#)

¹⁶ [S. 893.035\(7\), F.S.](#)

The Attorney General must provide specific facts and reasons for finding an immediate danger to the public health, safety, or welfare.¹⁷ The Attorney General must report to the Legislature by March 1 of each year concerning any rules adopted to schedule or reschedule any substance during the previous year. Each such rule expires on the following June 30 unless the Legislature adopts the provisions in statute.¹⁸

The Legislature has also delegated the authority to the Attorney General to, in part, adopt rules rescheduling specified substances to a less controlled schedule, or deleting specified substances from a schedule, upon a finding that reduced control of such substances is in the public interest.¹⁹ In determining whether reduced control of a substance is in the public interest, the Attorney General must consider the following:

- Whether the substance has been rescheduled or deleted from any schedule by rule adopted by the United States Attorney General pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811.
- The substance's actual or relative potential for abuse.
- Scientific evidence of the substance's pharmacological effect, if known.
- The state of current scientific knowledge regarding the substance.
- The substance's history and current pattern of abuse.
- The scope, duration, and significance of abuse.
- What, if any, risk there is to the public health.
- The substance's psychic or physiological dependence liability.²⁰

Xylazine

The United States Food and Drug Administration (FDA) approved xylazine for use with animals in 1972.²¹ Under [21 U.S.C. s. 360b\(a\)\(4\)](#), the Secretary of Health and Human Services (Secretary) can exempt an animal drug from specified requirements if its use is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship and in compliance with regulations promulgated by the Secretary. Current regulations include the special consideration that federal law restricts xylazine to use by or on the order of a licensed veterinarian.²²

When administered to horses and cattle, xylazine sedates the animal so that a veterinarian can safely provide treatment.²³ When used by humans, however, xylazine, or "tranq," causes sedation, difficulty breathing, low blood pressure, slowed heart rate, infected wounds, and even death.²⁴ It is especially dangerous when combined with opioids like fentanyl but is not an opioid itself, so medications that counteract opioids do not reverse xylazine's effects.²⁵

In 2016, the Florida Legislature classified xylazine as a Schedule I controlled substance under [s. 893.03\(1\)\(c\)37., F.S.](#)²⁶ However, although xylazine is still only FDA-approved for use with animals, it is not a federal controlled

¹⁷ [S. 120.54\(4\)\(a\)3., F.S.](#)

¹⁸ [S. 893.035\(9\), F.S.](#) This expiration provision is notwithstanding the 90-day expiration described in [s. 120.54\(4\)\(c\), F.S.](#)

¹⁹ [S. 893.0355, F.S.](#)

²⁰ *Id.*

²¹ FDA, *What We're Doing to Stop Illicit Xylazine from Getting into the U.S.* (July 11, 2023) <https://www.fda.gov/animal-veterinary/news-events/what-were-doing-stop-illicit-xylazine-getting-us> (last visited Feb. 09, 2026).

²² 21 CFR 522.2662.

²³ *Supra* note 35.

²⁴ Center for Disease Control, *What You Should Know About Xylazine* (May 16, 2024) <https://www.cdc.gov/overdose-prevention/about/what-you-should-know-about-xylazine.html> (last visited Feb. 09, 2026).

²⁵ *Id.*

²⁶ Ch. 2016-105, Laws of Fla.

substance.²⁷ Thus, while the FDA has repeatedly warned against xylazine use in humans and restricted its unlawful import, xylazine possession is not subject to federal criminal penalties.^{28,29} As recently as 2022, the DEA reported that “[a] kilogram of xylazine powder can be purchased online from Chinese suppliers with common prices ranging from six to 20 dollars per kilogram.”³⁰

Florida Attorney General Xylazine Regulation

In August 2025, the Florida Attorney General filed to reclassify xylazine from a Schedule I to a Schedule I controlled substance with an exemption for veterinary use and “[strike] a balance between protecting public safety and ensuring Florida’s agriculture and veterinary communities can continue to access this critical medication for animal care.”³¹ Under this new classification:

- Only licensed veterinarians may obtain and dispense xylazine in the course of their professional practice;
- Farmers and ranchers may receive xylazine prescriptions only through a veterinarian for legitimate livestock care;
- Public sale or possession remains illegal and misuse outside of veterinary practice is a crime; and
- Enhanced scheduling allows law enforcement and regulators to track distribution, prevent diversion, and keep xylazine out of illicit markets.³²

Offenses Related to Xylazine and Fentanyl

Possession of a Controlled Substance

Under [s. 893.13\(6\)\(a\), F.S.](#), a person may not be in actual or constructive possession of a controlled substance unless such controlled substance was:

- Lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or
- Otherwise authorized under chapter 893, F.S.

A person who unlawfully possesses specified controlled substances, including xylazine and fentanyl, commits a third degree felony.³³

Possession of a Controlled Substance with Specified Intent

Under [s. 893.13\(1\)\(a\), F.S.](#), a person may not sell, manufacture, or deliver, or possess with the intent to sell, manufacture, or deliver, a controlled substance, except as authorized by and chapters 499 or 893, F.S. A person who sells or unlawfully possesses xylazine with the intent to sell commits a third degree felony,³⁴ while a person who sells or unlawfully possesses fentanyl with the intent to sell commits a second degree felony.^{35,36}

²⁷ 21 U.S. Code § 812.

²⁸ FDA, *FDA Takes Action to Restrict Unlawful Import of Xylazine* (Feb. 28, 2023) <https://www.fda.gov/news-events/press-announcements/fda-takes-action-restrict-unlawful-import-xylazine> (last visited Feb. 09, 2026).

²⁹ FDA, *FDA Warns About the Risk of Xylazine Exposure in Humans* (Nov. 8, 2022)

<https://www.fda.gov/media/162981/download?attachment> (last visited Feb. 09, 2026).

³⁰ DEA, *The Growing Threat of Xylazine and its Mixture with Illicit Drugs* (Oct. 2022)

<https://www.dea.gov/sites/default/files/2022-12/The%20Growing%20Threat%20of%20Xylazine%20and%20its%20Mixture%20with%20Illicit%20Drugs.pdf> (last visited Feb. 09, 2026).

³¹ Office of the Attorney General, *Attorney General James Uthmeier Files to Provide Exemption for Xylazine to Support Veterinary Use and Combat Illicit Abuse* (Aug. 27, 2025) <https://www.myfloridalegal.com/newsrelease/attorney-general-james-uthmeier-files-provide-exemption-xylazine-support-veterinary-use> (last visited Feb. 09, 2026).

³² *Id.*

³³ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

³⁴ The unlawful possession of a controlled substance under [s. 893.03\(1\)\(c\), F.S.](#), with specified intent, is a third degree felony. [S. 893.13\(1\)\(a\)2., F.S.](#)

³⁵ The unlawful possession of a controlled substance under [s. 893.03\(2\)\(b\), F.S.](#), with specified intent, is a second degree felony. [S. 893.13\(1\)\(a\)1., F.S.](#)

³⁶ A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.](#)

Possession of a Controlled Substance with Specified Attributes

Under [s. 893.13\(1\)\(i\), F.S.](#), a person commits a first degree felony³⁷ and must be sentenced to a mandatory minimum term of imprisonment of three years if he or she sells, manufactures, or delivers, or possesses with the intent to sell, manufacture, or deliver:

- Alfentanil, carfentanil, fentanyl, sufentanil, a fentanyl derivative, a specified fentanyl analog,³⁸ or a mixture containing any such substance; and
- The substance or mixture is in a form that resembles, or is mixed, granulated, absorbed, spray-dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:
 - Resembles the trade dress of a branded food product, consumer food product, or logo food product;
 - Incorporates an actual or fake registered copyright, service mark, or trademark;
 - Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product; or
 - Contains a cartoon character imprint.

There is currently no offense for selling, or possessing with the intent to sell, xylazine with specified attributes.

Trafficking in a Controlled Substance

Under [s. 893.135\(1\)\(c\)4., F.S.](#), a person commits a first degree felony of “trafficking in dangerous fentanyl or fentanyl analogues,” if he or she knowingly sells, purchases, manufactures, delivers, or brings into this state, or is knowingly in actual or constructive possession of, 4 grams or more of:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative;
- A controlled substance analog of any substance described above; or
- A mixture containing any substance described above.

A person convicted of trafficking in dangerous fentanyl or fentanyl analogues must be sentenced to a mandatory minimum term of imprisonment and fine, the length and amount of which varies depending on the amount of fentanyl or fentanyl analogues involved in the offense, as follows:

- 7 year mandatory minimum sentence, and a \$50,000 fine, if the amount is 4 grams or more, but less than 14 grams.
- 20 year mandatory minimum sentence, and a \$100,000 fine, if the amount is 14 grams or more, but less than 28 grams.
- 25 year mandatory minimum sentence, and a \$500,000 fine, if the amount is 28 grams or more.

There is currently no offense for trafficking in xylazine.

³⁷ A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. Ss. [775.082](#), [775.083](#), or [775.084](#), F.S.

³⁸ Under [s. 893.0356\(2\)\(a\), F.S.](#), a “controlled substance analog” means a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

1. Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. [893.03](#), F.S.; and
2. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of [s. 893.03](#), F.S.

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2025	CS/HB 57 - Regulation of Xylazine	Plakon, Bankson/ <i>Leek</i>	The bill passed the House, was passed by the Senate as amended, and died in Returning Messages.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Justice Budget Subcommittee	14 Y, 0 N, As CS	2/12/2026	Keith	DiCola

THE CHANGES ADOPTED BY THE COMMITTEE: Removed all references to 70H.

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
