

FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

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BILL #: [CS/HB 477](#)
TITLE: Drug Paraphernalia
SPONSOR(S): Salzman

COMPANION BILL: [CS/SB 646](#) (Gaetz)
LINKED BILLS: None
RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY

Effect of the Bill:

The bill expands the type of narcotic-drug-testing products excluded from the definition of “drug paraphernalia” to also exclude such products which are used solely to determine whether a controlled substance contains xylazine. Consistent with current law, the exclusion does not apply to narcotic-drug-testing products that can measure or determine the quantity, weight, or potency of a controlled substance.

Fiscal or Economic Impact:

The bill may have a negative indeterminate impact on jail and prison beds by exempting specified narcotic-drug-testing equipment from the definition of “drug paraphernalia,” so that individuals may lawfully possess or sell such equipment. The bill may also have a positive economic impact on the private sector, to the extent that private entities may lawfully manufacture or sell such equipment.

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ANALYSIS

EFFECT OF THE BILL:

The bill expands the type of testing equipment excluded from the definition of “[drug paraphernalia](#)” to include [narcotic-drug-testing products](#) that are used solely to determine whether a [controlled substance](#) contains [xylazine](#), in addition to such products used to detect [fentanyl](#) or fentanyl analogues. (Section [1](#))

Thus, under the bill, a person may lawfully possess or sell such narcotic-drug-testing products, but a product that can measure or determine the quantity, weight, or potency of a controlled substance is still considered prohibited drug paraphernalia. (Section [1](#))

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2026. (Section [2](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have a negative indeterminate impact on prison beds by exempting specified narcotic-drug-testing equipment from the definition of “drug paraphernalia,” so that individuals may lawfully manufacture or sell such equipment.

LOCAL GOVERNMENT:

The bill may have a negative indeterminate impact on jail beds by exempting specified narcotic-drug-testing equipment from the definition of “drug paraphernalia,” so that individuals may lawfully possess and utilize such equipment.

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PRIVATE SECTOR:

The bill may have a positive economic impact on the private sector, to the extent that private entities may lawfully manufacture and sell specified narcotic-drug-testing equipment.

RELEVANT INFORMATION**SUBJECT OVERVIEW:****Controlled Substances***Controlled Substance Schedules*

Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, classifies controlled substances¹ 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”² of the substance and whether there is a currently accepted medical use for the substance.³

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.⁴
- 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.⁵
- 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.⁶
- 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.⁷
- 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.⁸

Controlled Substance Analogues

A “controlled substance analog” is a substance which, due to its chemical structure and potential for abuse is substantially similar to that of a controlled substance listed in Schedule I or Schedule II, and has, is represented to have, or is 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 in Schedule I or Schedule II.⁹ Application of

¹ “Controlled substance” means any substance named or described in Schedules I-V of [s. 893.03, F.S. S. 893.02\(4\), F.S.](#)

² “Potential for abuse” means that a substance has properties as 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.](#)

³ [S. 893.03, F.S.](#)

⁴ [S. 893.03\(1\), F.S.](#)

⁵ [S. 893.03\(2\), F.S.](#)

⁶ [S. 893.03\(3\), F.S.](#)

⁷ [S. 893.03\(4\), F.S.](#)

⁸ [S. 893.03\(5\), F.S.](#)

⁹ [S. 893.0356\(2\)\(a\), F.S.](#)

the controlled substance analog definition to new substances prevents them from evading controlling statutory provisions before they are able to be identified and evaluated.¹⁰

The following are exempted from the definition of controlled substance analog:

- A controlled substance;
- Any substance for which there is an approved new drug application;
- Any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or
- Any substance to which an investigational exemption applies under s. 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.¹¹

Fentanyl

Fentanyl is a synthetic opioid analgesic, appearing as crystals or crystalline powder, that is approximately 50 to 100 times more potent than morphine and is currently a Schedule II controlled substance.¹² When prescribed by a physician, fentanyl is typically used to treat patients with severe pain or to manage pain after surgery and is administered via injection, transdermal patch, or in lozenges.¹³ Although prescription fentanyl can be misused, most overdoses and related deaths have been linked to illicitly manufactured fentanyl, including fentanyl analogs.¹⁴ Illicit manufacturers frequently mix fentanyl with other illicit drugs, such as heroin, methamphetamine, and cocaine to increase the potency of the illicit drug and lower the cost of production and also, in increasing frequency, have been pressing illicitly-manufactured fentanyl into pills made to look like legitimate prescription opioids.¹⁵

Xylazine

The United States Food and Drug Administration (FDA) approved xylazine for use with animals in 1972.¹⁶ When administered to horses and cattle, xylazine sedates the animal so that a veterinarian can safely provide treatment.¹⁷ When used by humans, however, xylazine, or “tranq,” causes sedation, difficulty breathing, low blood pressure, slowed heart rate, infected wounds, and even death.¹⁸ 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.¹⁹

In 2016, the Florida Legislature classified xylazine as a Schedule I controlled substance under [s. 893.03\(1\)\(c\)37., F.S.](#)²⁰ However, although xylazine is still only FDA-approved for use with animals, it is not a federal controlled substance.²¹ Thus, while the FDA has repeatedly warned against xylazine use in humans and restricted its unlawful

¹⁰ [S. 893.0356\(1\), F.S.](#)

¹¹ [S. 893.0356\(2\)\(b\), F.S.](#)

¹² [S. 893.03\(2\)\(b\), F.S.](#) However, various fentanyl analogs are found in Schedule I. *See also* National Institute on Drug Abuse, *Fentanyl*, <https://www.drugabuse.gov/publications/drugfacts/fentanyl> (last visited Mar. 6, 2026); Centers for Disease Control and Prevention (CDC), *Fentanyl: Drug Fact Sheet*, <https://www.cdc.gov/overdose-prevention/media/pdfs/2024/04/DEA-Drug-Fact-Sheet-Fentanyl.pdf> (last visited Mar. 6, 2026).

¹³ CDC, *Fentanyl: Drug Fact Sheet*, *supra* note 12.

¹⁴ CDC, *Increases in Fentanyl-Related Overdose Deaths-Florida and Ohio, 2013-2015*, <https://www.cdc.gov/mmwr/volumes/65/wr/mm6533a3.htm> (last visited Mar. 6, 2026).

¹⁵ Drug Enforcement Administration (DEA), *Facts about Fentanyl*, <https://www.dea.gov/resources/facts-about-fentanyl> (last visited Mar. 6, 2026).

¹⁶ 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 Mar. 6, 2026).

¹⁷ *Id.*

¹⁸ 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 Mar. 6, 2026).

¹⁹ *Id.*

²⁰ Ch. 2016-105, Laws of Fla.

²¹ 21 U.S. Code § 812.

import, xylazine possession is not subject to federal criminal penalties.^{22,23} 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.”²⁴

Drug Paraphernalia

Section [893.145, F.S.](#), defines “drug paraphernalia” as all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, *testing*, analyzing, packaging, repackaging, storing, containing, concealing, transporting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of ch. 893, F.S., or [s. 877.111, F.S.](#) Drug paraphernalia is deemed to be contraband and subject to civil forfeiture.²⁵ The term includes testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances.²⁶

In 2023, the legislature revised the definition of “drug paraphernalia” to exclude certain narcotic-drug-testing products used solely to test a controlled substance for fentanyl as described in [s. 893.03\(2\)\(b\)9, F.S.](#), or any other controlled substance specified in [s. 893.135\(1\)\(c\)4.a, F.S.](#), including:

- Alfentanil;²⁷
- Carfentanil;²⁸
- Sufentanil;²⁹
- A fentanyl derivative;³⁰
- A controlled substance analog of any of the substances above;³¹ and
- A mixture containing any substance described above.³²

However, this exclusion does not apply to a narcotic-drug-testing product that can measure or determine the quantity, weight, or potency of a controlled substance.³³

It is currently a first degree misdemeanor³⁴ to:

- Use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, *test*, analyze, pack, repack, store, contain, or conceal a controlled substance or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.³⁵

²² 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 Mar. 6, 2026).

²³ FDA, *FDA Warns About the Risk of Xylazine Exposure in Humans* (Nov. 8, 2022) <https://www.fda.gov/media/162981/download?attachment> (last visited Mar. 6, 2026).

²⁴ DEA, *The Growing Threat of Xylazine and its Mixture with Illicit Drugs* (Oct. 2022) https://www.dea.gov/sites/default/files/2022-12/The_Growing_Threat_of_Xylazine_and_its_Mixture_with_Illicit_Drugs.pdf (last visited Mar. 6, 2026).

²⁵ [S. 893.145, F.S.](#)

²⁶ [S. 893.145\(4\), F.S.](#)

²⁷ [S. 893.03\(2\)\(b\)1, F.S.](#)

²⁸ [S. 893.03\(2\)\(b\)6, F.S.](#)

²⁹ [S. 893.03\(2\)\(b\)30, F.S.](#)

³⁰ [S. 893.03\(1\)\(a\)63, F.S.](#)

³¹ [S. 893.0356, F.S.](#)

³² Ch. 2023-297, Laws of Fla.

³³ *Supra* note 26.

³⁴ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

³⁵ [S. 893.147\(1\), F.S.](#)

- Place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.³⁶

It is currently a third degree felony³⁷ to:

- Deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one should reasonably know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, *test*, analyze, pack, repack, store, contain, or conceal a controlled substance or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.³⁸
- Use, possess with the intent to use, or manufacture with the intent to use drug paraphernalia, knowing or under circumstances in which one reasonably should know that it will be used to transport a controlled substance in violation of ch. 893, F.S., or contraband as defined in [s. 932.701\(2\)\(a\)1, F.S.](#)^{39,40}

A person who knowingly and willfully sells or offers for sale at retail specified drug paraphernalia commits a:

- First degree misdemeanor upon a first violation.
- Third degree felony upon a second or subsequent violation.⁴¹

Determination of Drug Paraphernalia

In determining whether an object is drug paraphernalia, a court or other authority or jury must consider, in addition to all other logically relevant factors, the following:

- Statements by an owner or by anyone in control of the object concerning its use.
- The proximity of the object, in time and space, to a direct violation of ch. 893, F.S.
- The proximity of the object to controlled substances.
- The existence of any residue of controlled substances on the object.
- Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of ch. 893, F.S. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this act does not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
- Instructions, oral or written, provided with the object concerning its use.
- Descriptive materials accompanying the object which explain or depict its use.
- Any advertising concerning its use.
- The manner in which the object is displayed for sale.
- Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor of or dealer in tobacco products.
- Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- The existence and scope of legitimate uses for the object in the community.
- Expert testimony concerning its use.⁴²

³⁶ [S. 893.147\(5\), F.S.](#)

³⁷ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, 775.083, or 775.084, F.S.](#)

³⁸ [S. 893.147\(2\), F.S.](#)

³⁹ [S. 893.147\(4\), F.S.](#)

⁴⁰ In relevant part, “contraband article” means any controlled substance as defined in ch. 893, F.S., or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of ch. 893, F.S., if the totality of the facts presented by the state is clearly sufficient to meet the state’s burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity, whether or not the use of the contraband article can be traced to a specific narcotics transaction.

⁴¹ [S. 893.147\(6\), F.S.](#)

⁴² [S. 893.146, F.S.](#)

Narcotic-Drug-Testing Products

Fentanyl and Xylazine Test Strips

Fentanyl test strips (FTS) are low-cost, small strips of paper that can be used to detect fentanyl and fentanyl analogs in all different kinds of controlled substances (heroin, methamphetamine, cocaine, etc.) and forms of controlled substances (pills, powders, and injectables).⁴³ FTS require the user to mix a small amount of controlled substance with water and place the strip in the mixture for about 15 seconds. The user then takes the strip out of the mixture and lets it stand out of the water mixture for two to five minutes. The user can then read the results which are shown as either a single pink line on the left-hand side (positive), two pink lines (negative), or a single pink line on the right-hand side or no lines (invalid).⁴⁴ Xylazine test strips work similar to FTS, and city and state health agencies have published instructions for using such products.⁴⁵

Immunity and Mitigating Circumstances Related to Specified Drug Offenses

A person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, a drug-related overdose may not be arrested, charged, prosecuted, or penalized for possession of a controlled substance or use or possession of drug paraphernalia.⁴⁶ Similar immunity is provided for a person who experiences, or has a good faith belief that he or she is experiencing, a drug-related overdose and is in need of medical assistance.⁴⁷

Additionally, it is a mitigating circumstance to any felony offense, except any capital felony, under which a departure from the lowest permissible sentence is reasonably justified, if a defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.⁴⁸

RECENT LEGISLATION:

YEAR	BILL #/SUBJECT	HOUSE/SENATE SPONSOR(S)	OTHER INFORMATION
2023	CS/SB 164 - Controlled Substance Testing	Hunschofsky/ Polsky	Became law on July 1, 2023.

OTHER RESOURCES:

[50 State Drug Checking Equipment Fact Sheet](#)

⁴³ CDC, *What You Can Do to Test for Fentanyl*, https://www.cdc.gov/stop-overdose/safety/?CDC_AAref_Val=https://www.cdc.gov/stopoverdose/fentanyl/fentanyl-test-strips.html (last visited Mar. 6, 2026).

⁴⁴ *Id.*
⁴⁵ See, e.g., Wisconsin, *Xylazine Test Strip Instructions*, <https://www.dhs.wisconsin.gov/publications/p03534.pdf> (last visited Mar. 6, 2026); New York City, *How to Test Your Drugs Using Xylazine Test Strips*, <https://www.nyc.gov/assets/doh/downloads/pdf/basas/xylazine-test-strips-instructions.pdf> (last visited Mar. 6, 2026); Washington, *How to Use BTNX Xylazine Test Strips*, <https://doh.wa.gov/sites/default/files/2024-03/150229-BTNXXylazineTestStripsKitInserts.pdf> (last visited Mar. 6, 2026).

⁴⁶ [S. 893.21\(1\), F.S.](#)

⁴⁷ [S. 893.21\(2\), F.S.](#)

⁴⁸ [S. 921.0026\(2\)\(n\), F.S.](#)