

## CS/HB 385 – Controlled Substances

Amends s. 893.13(1)(a)1, F.S., providing a 3 year mandatory minimum term of imprisonment when a person sells, manufactures, delivers or possess with intent to commit these acts, a controlled substance within a dwelling. Also amends s. 893.135, F.S. to create a felony of the first degree for “trafficking in synthetic drugs,” adding a number of drugs from s. 893.03(1)(c), F.S. If the quantity involved is:

- between 250-500 grams – Level 7, 1<sup>st</sup> degree felony; 3 year mandatory minimum
- between 500-1,000 grams – Level 8, 1<sup>st</sup> degree felony; 7 year mandatory minimum
- between 1,000 grams-30 kilograms – Level 9, 1<sup>st</sup> degree felony; 15 year mandatory minimum
- 30 kilograms or more – unranked, 1<sup>st</sup> degree felony; must be punished by life

The bill also adds that a person commits a capital felony of trafficking in synthetic drugs if it is determined that while violating these provisions, the trafficker intentionally killed or caused the intentional killing of another individual as a result of the trafficking, or due to his/her conduct, this led to a lethal result. Furthermore, a person that brings in 60 kilograms or more to the state, and knows that the probable result of such importation would be the death of a person, commits capital importation of synthetic drugs, also a capital felony.

Under current law, for similar substances:

- between 10-200 grams – 3 year mandatory minimum
- between 200-400 grams – 7 year mandatory minimum
- between 400 grams-30 kilograms – 15 year mandatory minimum
- 30 kilograms or more would a capital felony

This bill also adds trafficking in LSD to the offense severity ranking chart:

- between 1-5 grams – Level 7, 1<sup>st</sup> degree felony
- between 5-7 grams – Level 8, 1<sup>st</sup> degree felony
- 7 grams or more – Level 9, 1<sup>st</sup> degree felony

Under current law, trafficking in LSD:

- between 1-5 grams – unranked, 1<sup>st</sup> degree felony
- between 5-7 grams – unranked, 1<sup>st</sup> degree felony
- 7 grams or more – unranked, 1<sup>st</sup> degree felony

This bill also adds trafficking in gamma-butyrolactone (GBL) to the offense severity ranking chart:

- between 1-5 kilograms – Level 7, 1<sup>st</sup> degree felony
- between 5-10 kilograms – Level 8, 1<sup>st</sup> degree felony
- 10 kilograms or more – Level 9, 1<sup>st</sup> degree felony

Under current law, trafficking in GBL:

- between 1-5 kilograms – unranked, 1<sup>st</sup> degree felony
- between 5-10 kilograms – unranked, 1<sup>st</sup> degree felony
- 10 kilograms or more – unranked, 1<sup>st</sup> degree felony

This bill also adds trafficking in flunitrazepam to the offense severity ranking chart:

- between 28-30 grams – Level 9, 1<sup>st</sup> degree felony

Under current law, trafficking in flunitrazepam:

- between 4-14 grams – unranked, 1<sup>st</sup> degree felony
- between 14-28 grams – unranked, 1<sup>st</sup> degree felony
- between 28-30 grams – unranked, 1<sup>st</sup> degree felony
- 30 kilograms or more – unranked, 1<sup>st</sup> degree felony

The only current trafficking offense that exists out of s. 893.03(1)(c), F.S. is MDMA. Per DOC, in FY 14-15, there were 37 (adj.) offenders sentenced for trafficking between 10 and 200 grams of MDMA. There were 22 (adj.) sentenced to prison (mean sentence length=57.6 m, incarceration rate: 59.5% adj.-60.7% unadj.). In FY 14-15, there was 1 offender sentenced for trafficking between 200 and 400 grams of MDMA, and that offender was sentenced to prison (sentence length=76.0 m). There was also 1 offender sentenced for trafficking in over 400 grams of MDMA in FY 14-15, and that offender was sentenced to prison (sentence length=36.0 m, incarceration rate: 100%). Also, there were no offenders sentenced for capital importation. Furthermore, no offenders were sentenced for capital importation of any drugs in FY 14-15.

It is unknown how many offenders violated s. 893.13, F.S. inside a dwelling, but given the large number of offenders sentenced under this statute in FY 14-15 (6,697), with 2,593 receiving a prison sentence (mean sentence length=30.9 m), adding this line could significantly increase both prison sentences and sentence length.

Per DOC, in FY 14-15, there were no offenders sentenced for trafficking in LSD or GBL. Lastly, one offender was sentenced for trafficking in flunitrazepam (rohypnol) between 4 and 14 grams, and that offender received a prison sentence (sentence length=60 m).

**CONFERENCE ADOPTED ESTIMATE: Positive Significant**

**Requested by: House**