

## CS/SB 408 – Drug Offenses

This bill amends s. 893.135, F.S., adding “trafficking in pharmaceuticals” to the list of trafficking offenses under this statute, defined as “a person who knowingly sells, purchases, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in this section.” Additionally, “the term ‘dosage unit’ means an individual tablet, capsule, pill, transdermal patch, unit of sublingual gelatin, or other visually distinctive form, with a clear manufacturer marking on each unit, of a commercial drug product approved by the federal Food and Drug Administration and manufactured and distributed by a pharmaceutical company lawfully doing business in the United States.” Therefore, penalties will only apply to trafficking of commercial drug products.

The bill notes that “the sale, purchase, manufacture, delivery, or actual or constructive possession of fewer than 120 dosage units containing any controlled substance described in this section” would not be a violation under s. 893.135, F.S. Therefore, any penalties applied would be under s. 893.13, F.S. Otherwise, anything above that threshold for dosage units that is already included under the drug trafficking statute will also be included under the following thresholds (unranked, 1<sup>st</sup> degree felonies, Level 7 by default):

- between 120-499 dosage units – 3 year mandatory minimum
- between 500-999 dosage units – 7 year mandatory minimum
- between 1,000-4,999 dosage units – 15 year mandatory minimum
- 5,000 or more dosage units – 25 year mandatory minimum

Per DOC, in FY 17-18, there were 32,369 (adj.) offenders sentenced for drug possession offenses under s. 893.13, F.S., and 2,831 (adj.) were sentenced to prison (mean sentence length=23.0 m, incarceration rate: 8.8% adj.-8.8% unadj.). There were 9,424 (adj.) offenders sentenced for sale, manufacture, and delivery penalties under s. 893.13, F.S., with 3,299 (adj.) sentenced to prison (mean sentence length=37.1 m, incarceration rate: 35.0% adj.-35.0% unadj.). Finally, there were 2,005 (adj.) offenders sentenced for drug trafficking offenses, and 1,502 (adj.) were sentenced to prison (mean sentence length=75.7 m, incarceration rate: 74.9% adj.-74.9% unadj.).

It is not known which of the offenses above involved substances in dosage unit form. Additionally, the current incarceration thresholds cannot be broken down any further to examine how possession, sale/manufacture/delivery, and trafficking offense sentences might be structured under the new dosage unit thresholds. However, for certain drugs, these new thresholds could lower the number of offenders receiving drug trafficking mandatory minimum sentences, as well as the number of mandatory minimum years served, due to the dosage unit number thresholds allowing greater weights for controlled substances before triggering mandatory minimum sentences than existing weight thresholds for the same substances, but there isn't enough data on dosage units

for commercial drug products containing substances listed under s. 893.135, F.S. to determine how prisons might be impacted.

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**Requested by: Senate**