

## HB 339 – Drug Trafficking Offenses

This bill amends s. 893.135, F.S., adjusting the thresholds for several drug trafficking penalties.

Under current language, cocaine trafficking thresholds are listed below:

- 28 grams or more, but less than 200 grams (mandatory minimum of 3 years)
- 200 grams or more, but less than 400 grams (mandatory minimum of 7 years)
- 400 grams or more, but less than 150 kilograms (mandatory minimum of 15 years)

Amended thresholds are listed below:

- 50 grams or more, but less than 250 grams (mandatory minimum of 3 years)
- 250 grams or more, but less than 500 grams (mandatory minimum of 7 years)
- 500 grams or more, but less than 150 kilograms (mandatory minimum of 15 years)

Further, hydromorphone is removed from trafficking in illegal drugs (now named “trafficking in illegal opioids), oxycodone’s trafficking subsection is deleted, and both drugs are moved into trafficking in hydrocodone. While hydromorphone’s and oxycodone’s thresholds would already be increased by this move, trafficking in hydrocodone sees a further increase (now named “trafficking in prescription drugs”):

Under current language, hydrocodone thresholds are listed below:

- 28 grams or more, but less than 50 grams (mandatory minimum of 3 years)
- 50 grams or more, but less than 100 grams (mandatory minimum of 7 years)
- 100 grams or more, but less than 300 grams (mandatory minimum of 15 years)
- 300 grams or more, but less than 30 kilograms (mandatory minimum of 25 years)

Amended thresholds are listed below:

- 60 grams or more, but less than 100 grams (mandatory minimum of 3 years)
- 100 grams or more, but less than 250 grams (mandatory minimum of 7 years)
- 250 grams or more, but less than 30 kilograms (mandatory minimum of 15 years)

Trafficking in phenethylamines also sees one adjustment to its thresholds, moving the three year mandatory minimum for 10 grams or more, but less than 200 grams to **20 grams or more**.

Trafficking in lysergic acid diethylamide (LSD) sees the final change to thresholds. Under current language, thresholds are listed below:

- 1 gram or more, but less than 5 grams (mandatory minimum of 3 years)
- 5 grams or more, but less than 7 grams (mandatory minimum of 7 years)
- 7 grams or more (mandatory minimum of 15 years)
- 7 grams or more, knows that probable result is death of a person (Life/Death)

Amended thresholds are listed below:

- 3 grams or more, but less than 10 grams (mandatory minimum of 3 years)
- 10 grams or more, but less than 15 grams (mandatory minimum of 7 years)
- 15 grams or more (mandatory minimum of 15 years)
- 15 grams or more, knows that probable result is death of a person (Life/Death)

This bill further amends s. 893.135, F.S., stating the following:

“(8) The court may depart from the mandatory minimum term of imprisonment if the departure is specifically authorized and the court makes the following written findings:

- (a) The defendant has no previous conviction for a forcible felony as defined in s. 776.08, F.S.
- (b) The defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon, or induce another participant to do so, in connection with the offense.
- (c) The offense did not result in death or serious bodily injury to any person.
- (d) The defendant was not an organizer, leader, manager, or supervisor of others in the offense, and was not engaged in a continuing criminal enterprise, as described in s. 893.20, F.S.
- (e) No later than the time of the sentencing hearing, the defendant has truthfully provided to the state all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful information shall not preclude a determination by the court that the defendant has complied with this requirement.”

These departures would apply to trafficking in cannabis (less than 10,000 pounds), trafficking in cocaine (less than 500 grams), trafficking in hydrocodone (less than 250 grams, now named trafficking in prescription drugs), trafficking in phencyclidine (less than 400 grams), trafficking in methaqualone (less than 25 kilograms), trafficking in amphetamine (less than 200 grams), trafficking in flunitrazepam (less than 28 grams), trafficking in gamma-hydroxybutyric acid (GHB) (less than 5 kilograms), trafficking in gamma-butyrolactone (GBL) (less than 10 kilograms), trafficking in 1,4-Butanediol (less than 10 kilograms), trafficking in phenethylamines (less than 400 grams), trafficking in lysergic acid diethylamide (LSD) (less than 15 grams), trafficking in synthetic cannabinoids (less than 1 kilogram), and trafficking in n-benzyl phenethylamines (less than 200 grams).

Lastly, it adds that “A person sentenced under s. 893.135, F.S., Florida Statutes, before the effective date of this act may petition the court of original sentencing jurisdiction for resentencing consistent with the amendments made to that section by this act.”

Per DOC, in FY 17-18, there were 1,368 (adj.) offenders sentenced to prison under the trafficking felonies who are potentially impacted by the adjustments to the mandatory minimum language. Almost 22% of those sentenced did not receive a prison sentence. Therefore, it is not known how much courts would change their practices if this language became statute. Furthermore, it is not known how the changes to thresholds will affect sentencing practices, though cocaine trafficking is a high volume offense with large numbers coming in each year (270 in FY 18-19), so it is likely that these changes could have a significant effect. Finally, the retroactive nature of this statute will allow for those incarcerated to petition for resentencing. Per DOC, there are currently 3,257 inmates who are potentially eligible for resentencing.

**CONFERENCE ADOPTED ESTIMATE: Negative Significant**

**Requested by: House**