

## SB 150 – 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 possesses with intent to commit these acts, a designated Schedule I or Schedule II controlled substance within a dwelling. Amends s. 782.07, F.S., adding that someone “who knowingly and intentionally possesses with intent to distribute a quantity of a substance or mixture containing detectable amounts of” cocaine or fentanyl, “the use of which results in death,” commits an **unranked, 3<sup>rd</sup> degree felony**.

Amends s. 893.135(c)4, F.S., adding “trafficking in fentanyl” for a “person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of fentanyl, or any salt, derivative, isomer, or salt of an isomer thereof,” or any mixture containing any such substance, if the quantity involved is:

- between 4-14 grams – Unranked, 1<sup>st</sup> degree felony; 3 year mandatory minimum
- between 14-28 grams – Unranked, 1<sup>st</sup> degree felony; 7 year mandatory minimum
- between 28 grams-30 kilograms – Unranked, 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

Under current law, for similar substances:

- between 4-14 grams – 3 year mandatory minimum
- between 14-28 grams – 15 year mandatory minimum
- between 28 grams-30 kilograms – 25 year mandatory minimum

Amending s. 893.135(m), F.S., this bill also adds “trafficking in synthetic drugs for a “person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of” 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 7, 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; 25 year mandatory minimum

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 be a capital felony

This bill also adds trafficking in LSD to the offense severity ranking chart. Under current law, between 1-5 grams is an unranked, 1<sup>st</sup> degree felony. This addition makes it a **Level 7, 1<sup>st</sup> degree felony**.

It is unknown how many offenders sold, manufactured, or delivered, or possessed with intent to sell, manufacture, or deliver, a controlled substance (s. 893.13, F.S.) inside a dwelling, but given the large number of offenders sentenced under this statute in FY 15-16 (10,849 adj.), with 3,837 (adj.) receiving a prison sentence (mean sentence length=36.1 m), adding this line could significantly increase both prison sentences and sentence length.

Per FDLE, in FY 15-16, one person was arrested for selling fentanyl, and 2 people received a conviction/adjudication withheld. DOC does not track the number of admissions to prison for fentanyl, so that population is not known. Per FDLE, citing the Drugs Identified in Deceased Persons by Florida Medical Examiners – 2015 Annual Report, there were 911 deaths in which fentanyl was present or deemed the cause of death. Furthermore, 99 of the deaths associated with fentanyl only had that in their system, while the rest were in combination with another drug. The annual report also shows that there were 1,834 deaths in which cocaine was present or deemed the cause of death, with 280 deaths where only cocaine was in their system. S. 782.04, F.S. includes a list of drugs in which the killing of a human being resulted from their unlawful distribution, with cocaine included. Per DOC, one person was charged under this statute with drug related first degree murder, and that person was sentenced to prison (sentence length=24 m, incarceration rate: 100%).

Per DOC, in FY 15-16, there were 487 (adj.) offenders sentenced for trafficking offenses similar to fentanyl (heroin included) between 4 and 14 grams. There were 363 (adj.) sentenced to prison (mean sentence length=62.1 m, incarceration rate: 74.6% adj.-74.5% unadj.). There were 126 (adj.) offenders sentenced for trafficking between 14 and 28 grams, and 102 (adj.) of these offenders were sentenced to prison (mean sentence length=94.6 m, incarceration rate: 81.0% adj.-81.0% unadj.). There were 81 (adj.) offenders sentenced for trafficking between 28 grams and 30 kilograms, and 64 (adj.) of these offenders were sentenced to prison (mean sentence length=144.5 m, incarceration rate: 79.0% adj.-79.1% unadj.). No offenders were sentenced above 30 kilograms.

The only other current trafficking offenses that exist out of s. 893.03(1)(c), F.S. are MDMA and phenethylamines, both of them combined in DOC's data. Per DOC, in FY 15-16, there were 41 (adj.) offenders sentenced for trafficking between 10 and 200

grams of these drugs. There were 26 (adj.) sentenced to prison (mean sentence length=45.6 m, incarceration rate: 63.4% adj.-64.7% unadj.). There were 2 offenders sentenced for trafficking between 200 and 400 grams of these drugs, and none of those offenders were sentenced to prison. There was also 1 (adj.) offender sentenced for trafficking in over 400 grams of these drugs in FY 15-16, and that offender was sentenced to prison (sentence length=84.0 m, incarceration rate: 100%). No offenders were sentenced above 30 kilograms.

Per DOC, in FY 15-16, there were no offenders sentenced for trafficking in LSD between 1-5 grams.

**CONFERENCE ADOPTED ESTIMATE: Positive Significant**

**Requested by: Senate**