

SB 432 – Controlled Substances (Similar CS/HB 309)

This bill amends multiple statutes. First, it amends s. 893.03, F.S., adding 7-Hydroxymitragynine...concentrated at a level above 400 parts per million on a dry-weight basis” to the list of Schedule I controlled substances, making it now an offense for the possession, sale, manufacture, delivery, or trafficking of this drug. It then makes an exception for Xylazine, adding “except for a xylazine animal drug product approved by the United States Food and Drug Administration and the use of which conforms to the approved application or is authorized under 21 U.S.C. s. 360b(a)(4). The manufacture, importation, distribution, prescribing, or sale of xylazine for human use is not subject to this exception.” It also amends s. 893.13, F.S., adding Xylazine to the Level 7, 1st degree felony 3 year mandatory minimum sentence for when a “person sells, manufactures, or delivers, or possesses with intent to sell, manufacture, or deliver” a specific list of fentanyl-related substances, with Xylazine’s derivatives, analogs, and mixtures also included with fentanyl’s. Finally, this bill amends s. 893.135, F.S., adding “trafficking in xylazine” for “a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 28 grams or more of xylazine....or any salt thereof, or 28 grams or more of any mixture containing any such substance,” if the quantity involved is:

- 28 grams or more, less than 100 grams – Unranked, 1st degree felony; 3 year mandatory minimum
- 100 grams or more, less than 200 grams – Unranked, 1st degree felony; 7 year mandatory minimum
- 200 grams or more – Unranked, 1st degree felony; 25 year mandatory minimum

Under current law, for similar substances:

- 4 grams or more, less than 14 grams – 3 year mandatory minimum
- 14 grams or more, less than 28 grams – 15 year mandatory minimum
- 28 grams or more, less than 30 kilograms – 25 year mandatory minimum

Per DOC, in FY 24-25, there were 1,159 new commitments to prison for the possession, sale, manufacture, or delivery, or trafficking of various drugs. It is not known how many additional offenders would be incarcerated with the addition of 7-Hydroxymitragynine.

Xylazine is currently included with various other drugs under the sale, manufacturing, delivery, and trafficking statutes. The new language for Xylazine presents language that could both increase the prison population, by adding it to the Level 7, 1st degree 3 year mandatory felony with fentanyl, its derivatives, analogs, and mixtures, but also reduce it by not applying a mandatory minimum sentence for trafficking until it reaches 28 grams. Even though it is not known how many new commitments Xylazine represents, there were 70 new commitments for trafficking below the new threshold, and 362 new

commitments for sale, manufacture, and delivery. The higher number of new commitments make it likely that more offenders involved with Xylazine will be incarcerated, and with the addition of 7-Hydroxymitragynine, the prison population is expected to be pushed in a positive direction, though the number of new inmates cannot be quantified.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate & House