

HB 1143

2018

1 A bill to be entitled

2 An act relating to defrauding or attempting to defraud
3 drug tests; amending s. 817.565, F.S.; defining the
4 term "adulterant"; prohibiting a person from
5 defrauding or attempting to defraud a certain hair
6 follicle test; prohibiting a person from giving away
7 or transporting into this state a substance or device
8 that is used with intent to defraud or in attempts to
9 defraud a lawfully administered hair follicle test
10 designed to detect the presence of chemical substances
11 or controlled substances; creating enhanced criminal
12 penalties; creating a presumption of intent to defraud
13 or attempt to defraud under certain circumstances;
14 providing an effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Section 817.565, Florida Statutes, is amended
19 to read:

20 817.565 Chemical and controlled substance ~~Urine~~ testing,
21 fraudulent practices; penalties; presumption.-

22 (1) As used in this section, the term "adulterant" means a
23 substance that is not expected to be in human urine or a
24 substance expected to be present in human urine but which is at
25 a concentration higher than that which is consistent with human

26 | urine, including, but not limited to, any of the following:

- 27 | (a) Bleach.
- 28 | (b) Chromium.
- 29 | (c) Creatinine.
- 30 | (d) Detergent.
- 31 | (e) Glutaraldehyde.
- 32 | (f) Glutaraldehyde/squalene.
- 33 | (g) Hydrochloric acid.
- 34 | (h) Hydroiodic acid.
- 35 | (i) Iodine.
- 36 | (j) Nitrite.
- 37 | (k) Peroxidase.
- 38 | (l) Potassium dichromate.
- 39 | (m) Potassium nitrite.
- 40 | (n) Pyridinium chlorochromate.
- 41 | (o) Sodium nitrite.

42 | (2) A person may not ~~It is unlawful for any person:~~
 43 | ~~(a)~~ willfully ~~to~~ defraud or attempt to defraud a any
 44 | lawfully administered urine or hair follicle test designed to
 45 | detect the presence of chemical substances or controlled
 46 | substances. A person who violates this subsection commits a
 47 | misdemeanor of the first degree, punishable as provided in s.
 48 | 775.082 or s. 775.083.

49 | (3) ~~(b)~~ A person may not willfully ~~to~~ manufacture,
 50 | advertise, sell, give away, ~~or~~ distribute, or transport into

51 this state a ~~any~~ substance, including an adulterant, a drug
52 masking product, or synthetic or human urine, or device that
53 ~~which~~ is used with intent ~~intended~~ to defraud or in attempt to
54 defraud a ~~any~~ lawfully administered urine or hair follicle test
55 designed to detect the presence of chemical substances or
56 controlled substances. A person who violates this subsection
57 commits a misdemeanor of the first degree, punishable as
58 provided in s. 775.082 or s. 775.083. A person who is convicted
59 under this subsection and violates this subsection a second or
60 subsequent time commits a felony of the third degree, punishable
61 as provided in s. 775.082, s. 775.083, or s. 775.084.

62 (4) Intent to defraud or attempt to defraud a lawfully
63 administered urine or hair follicle test under this section is
64 presumed if:

65 (a) A heating element or any other device used to thwart
66 the test accompanies the transporting into this state,
67 advertising, sale, giving away, or distribution of the substance
68 or device; or

69 (b) Instructions that provide a method for thwarting the
70 test accompany the transporting into this state, advertising,
71 sale, giving away, or distribution of the substance or device.

72 ~~(2) Any person who violates the provisions of this section~~
73 ~~is guilty of a misdemeanor of the first degree, punishable as~~
74 ~~provided in s. 775.082 or s. 775.083.~~

75 Section 2. This act shall take effect October 1, 2018.