

26 | onto, coated on in whole or in part, or solubilized with or
 27 | into, a product, if the product or its packaging further has at
 28 | least one of the following attributes:

29 | (I) A resemblance to the trade dress of a consumer food
 30 | product, branded food product, or logo food product, or
 31 | incorporates an actual or satirical version of a registered
 32 | trademark, service mark, or copyright;

33 | (II) A bright color or coloring scheme;

34 | (III) The appearance of a cereal, candy, vitamin, gummy,
 35 | or chewable product such as a gum or gelatin-based product;

36 | (IV) A cartoon character imprint; or

37 | (V) An appearance that is appealing to a child, including,
 38 | but not limited to, resembling candy or a candy wrapper.

39 | (VI) Is incorporated into a separate product or package
 40 | approved by the United States Food and Drug Administration, or
 41 | approved by a regulatory agency for food or drug products in
 42 | another country, if the addition of fentanyl, carfentanil, or
 43 | any analog thereof, would render the approved product an
 44 | adulterated product under the standards of the Federal Food,
 45 | Drug, and Cosmetic Act, or any statute or administrative rule of
 46 | this state.

47 | 2. A controlled substance named or described in s.
 48 | 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,
 49 | (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of
 50 | the third degree, punishable as provided in s. 775.082, s.

51 775.083, or s. 775.084.

52 3. A controlled substance named or described in s.
53 893.03(5) commits a misdemeanor of the first degree, punishable
54 as provided in s. 775.082 or s. 775.083.

55 Section 2. Paragraph (c) of subsection (1) of section
56 893.135, Florida Statutes, is amended to read:

57 893.135 Trafficking; mandatory sentences; suspension or
58 reduction of sentences; conspiracy to engage in trafficking.—

59 (1) Except as authorized in this chapter or in chapter 499
60 and notwithstanding the provisions of s. 893.13:

61 (c)1. A person who knowingly sells, purchases,
62 manufactures, delivers, or brings into this state, or who is
63 knowingly in actual or constructive possession of, 4 grams or
64 more of any morphine, opium, hydromorphone, or any salt,
65 derivative, isomer, or salt of an isomer thereof, including
66 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
67 (3)(c)4., or 4 grams or more of any mixture containing any such
68 substance, but less than 30 kilograms of such substance or
69 mixture, commits a felony of the first degree, which felony
70 shall be known as "trafficking in illegal drugs," punishable as
71 provided in s. 775.082, s. 775.083, or s. 775.084. If the
72 quantity involved:

73 a. Is 4 grams or more, but less than 14 grams, such person
74 shall be sentenced to a mandatory minimum term of imprisonment
75 of 3 years and shall be ordered to pay a fine of \$50,000.

76 b. Is 14 grams or more, but less than 28 grams, such
77 person shall be sentenced to a mandatory minimum term of
78 imprisonment of 15 years and shall be ordered to pay a fine of
79 \$100,000.

80 c. Is 28 grams or more, but less than 30 kilograms, such
81 person shall be sentenced to a mandatory minimum term of
82 imprisonment of 25 years and shall be ordered to pay a fine of
83 \$500,000.

84 2. A person who knowingly sells, purchases, manufactures,
85 delivers, or brings into this state, or who is knowingly in
86 actual or constructive possession of, 28 grams or more of
87 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
88 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
89 grams or more of any mixture containing any such substance,
90 commits a felony of the first degree, which felony shall be
91 known as "trafficking in hydrocodone," punishable as provided in
92 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

93 a. Is 28 grams or more, but less than 50 grams, such
94 person shall be sentenced to a mandatory minimum term of
95 imprisonment of 3 years and shall be ordered to pay a fine of
96 \$50,000.

97 b. Is 50 grams or more, but less than 100 grams, such
98 person shall be sentenced to a mandatory minimum term of
99 imprisonment of 7 years and shall be ordered to pay a fine of
100 \$100,000.

101 c. Is 100 grams or more, but less than 300 grams, such
102 person shall be sentenced to a mandatory minimum term of
103 imprisonment of 15 years and shall be ordered to pay a fine of
104 \$500,000.

105 d. Is 300 grams or more, but less than 30 kilograms, such
106 person shall be sentenced to a mandatory minimum term of
107 imprisonment of 25 years and shall be ordered to pay a fine of
108 \$750,000.

109 3. A person who knowingly sells, purchases, manufactures,
110 delivers, or brings into this state, or who is knowingly in
111 actual or constructive possession of, 7 grams or more of
112 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
113 thereof, or 7 grams or more of any mixture containing any such
114 substance, commits a felony of the first degree, which felony
115 shall be known as "trafficking in oxycodone," punishable as
116 provided in s. 775.082, s. 775.083, or s. 775.084. If the
117 quantity involved:

118 a. Is 7 grams or more, but less than 14 grams, such person
119 shall be sentenced to a mandatory minimum term of imprisonment
120 of 3 years and shall be ordered to pay a fine of \$50,000.

121 b. Is 14 grams or more, but less than 25 grams, such
122 person shall be sentenced to a mandatory minimum term of
123 imprisonment of 7 years and shall be ordered to pay a fine of
124 \$100,000.

125 c. Is 25 grams or more, but less than 100 grams, such

126 | person shall be sentenced to a mandatory minimum term of
 127 | imprisonment of 15 years and shall be ordered to pay a fine of
 128 | \$500,000.

129 | d. Is 100 grams or more, but less than 30 kilograms, such
 130 | person shall be sentenced to a mandatory minimum term of
 131 | imprisonment of 25 years and shall be ordered to pay a fine of
 132 | \$750,000.

133 | 4.a. A person who knowingly sells, purchases,
 134 | manufactures, delivers, or brings into this state, or who is
 135 | knowingly in actual or constructive possession of, 4 grams or
 136 | more of:

137 | (I) Alfentanil, as described in s. 893.03(2)(b)1.;

138 | (II) Carfentanil, as described in s. 893.03(2)(b)6.;

139 | (III) Fentanyl, as described in s. 893.03(2)(b)9.;

140 | (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

141 | (V) A fentanyl derivative, as described in s.

142 | 893.03(1)(a)62.;

143 | (VI) A controlled substance analog, as described in s.

144 | 893.0356, of any substance described in sub-sub-subparagraphs

145 | (I)-(V); or

146 | (VII) A mixture containing any substance described in sub-

147 | sub-subparagraphs (I)-(VI),

148 |

149 | commits a felony of the first degree, which felony shall be

150 | known as "trafficking in dangerous fentanyl or fentanyl

HB 1359

2023

151 analogues," punishable as provided in s. 775.082, s. 775.083, or
152 s. 775.084.

153 b. If the quantity involved under sub-subparagraph a.:

154 (I) Is 4 grams or more, but less than 14 grams, such
155 person shall be sentenced to a mandatory minimum term of
156 imprisonment of 7 years, and shall be ordered to pay a fine of
157 \$50,000.

158 (II) Is 14 grams or more, but less than 28 grams, such
159 person shall be sentenced to a mandatory minimum term of
160 imprisonment of 20 years, and shall be ordered to pay a fine of
161 \$100,000.

162 (III) Is 28 grams or more, such person shall be sentenced
163 to a mandatory minimum term of imprisonment of 25 years, and
164 shall be ordered to pay a fine of \$500,000.

165 (IV) Is 4 grams or more and packaged or appears in such a
166 manner that a reasonable person could likely interpret as
167 something that would be appealing to a person under 18 years
168 old, such person shall be sentenced to a mandatory minimum term
169 of life imprisonment, and shall be ordered to pay a fine of
170 \$500,000. In addition to any other penalties imposed under this
171 section, with respect to fentanyl, carfentanil, or an analog
172 thereof, an additional sentence of 5 years shall be imposed if
173 the fentanyl or analog thereof is in a form that resembles, or
174 was mixed, granulated, absorbed, spray-dried, aerosolized as or
175 onto, coated on in whole or in part, or solubilized with or

176 into, a product, where the product or its packaging further has
177 at least one of the following attributes:

178 (A) A resemblance to the trade dress of a consumer food
179 product, branded food product, or logo food product, or
180 incorporates an actual or satirical version of a registered
181 trademark, service mark, or copyright;

182 (B) A bright color or coloring scheme;

183 (C) The appearance of a cereal, candy, vitamin, gummy, or
184 chewable product such as gum or gelatin-based product;

185 (D) A cartoon character imprint; or

186 (E) An appearance that is appealing to a child, including,
187 but not limited to, resembling candy or a candy wrapper.

188 (F) Is incorporated into a separate product or package
189 approved by the United States Food and Drug Administration, or
190 approved by a regulatory agency for food or drug products in
191 another country, if the addition of fentanyl, carfentanil, or
192 any analog thereof, would render the approved product an
193 adulterated product under the standards of the Federal Food,
194 Drug, and Cosmetic Act or any statute or administrative rule of
195 this state.

196 5. A person who knowingly sells, purchases, manufactures,
197 delivers, or brings into this state, or who is knowingly in
198 actual or constructive possession of, 30 kilograms or more of
199 any morphine, opium, oxycodone, hydrocodone, codeine,
200 hydromorphone, or any salt, derivative, isomer, or salt of an

HB 1359

2023

201 isomer thereof, including heroin, as described in s.
202 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
203 more of any mixture containing any such substance, commits the
204 first degree felony of trafficking in illegal drugs. A person
205 who has been convicted of the first degree felony of trafficking
206 in illegal drugs under this subparagraph shall be punished by
207 life imprisonment and is ineligible for any form of
208 discretionary early release except pardon or executive clemency
209 or conditional medical release under s. 947.149. However, if the
210 court determines that, in addition to committing any act
211 specified in this paragraph:

212 a. The person intentionally killed an individual or
213 counseled, commanded, induced, procured, or caused the
214 intentional killing of an individual and such killing was the
215 result; or

216 b. The person's conduct in committing that act led to a
217 natural, though not inevitable, lethal result,
218
219 such person commits the capital felony of trafficking in illegal
220 drugs, punishable as provided in ss. 775.082 and 921.142. A
221 person sentenced for a capital felony under this paragraph shall
222 also be sentenced to pay the maximum fine provided under
223 subparagraph 1.

224 6. A person who knowingly brings into this state 60
225 kilograms or more of any morphine, opium, oxycodone,

HB 1359

2023

226 hydrocodone, codeine, hydromorphone, or any salt, derivative,
227 isomer, or salt of an isomer thereof, including heroin, as
228 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
229 60 kilograms or more of any mixture containing any such
230 substance, and who knows that the probable result of such
231 importation would be the death of a person, commits capital
232 importation of illegal drugs, a capital felony punishable as
233 provided in ss. 775.082 and 921.142. A person sentenced for a
234 capital felony under this paragraph shall also be sentenced to
235 pay the maximum fine provided under subparagraph 1.

236 Section 3. This act shall take effect July 1, 2023.