

## CHAPTER 97-1

### Committee Substitute for House Bill No. 91

An act relating to controlled substances; amending s. 893.03, F.S.; adding flunitrazepam, alpha-ethyltryptamine, 2-amino-5-phenyl-2-oxazoline, 4-bromo-2, 5-dimethoxyphenethylamine, and methcathinone to the list of Schedule I controlled substances; adding gamma-hydroxy-butyrate to the list of Schedule II controlled substances; adding fenfluramine to Schedule IV; eliminating flunitrazepam from the list of Schedule IV controlled substances; amending s. 893.13, F.S.; eliminating language with respect to penalties for the use of flunitrazepam; revising language with respect to combinations of certain controlled substances; amending s. 893.135, F.S.; providing penalties for trafficking in flunitrazepam; amending s. 921.0012, F.S.; conforming the sentencing guidelines to the act; repealing s. 893.03(4)(w), F.S.; providing for the removal of fenfluramine from the schedule of controlled substances; providing a conditional effective date and an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (1), paragraph (a) of subsection (2), and subsection (4) of section 893.03, Florida Statutes, 1996 Supplement, are amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled “Excluded Substances”; 21 C.F.R. s. 1308.24, styled “Exempt Chemical Preparations”; 21 C.F.R. s. 1308.32, styled “Exempted Prescription Products”; or 21 C.F.R. s. 1308.34, styled “Exempt Anabolic Steroid Products.”

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.

2. Acetylmethadol.
3. Allylprodine.
4. Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
5. Alphamethadol.
6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).
7. Alpha-methylthiofentanyl.
8. Alphameprodine.
9. Benzethidine.
10. Benzylfentanyl.
11. Betacetylmethadol.
12. Beta-hydroxyfentanyl.
13. Beta-hydroxy-3-methylfentanyl.
14. Betameprodine.
15. Betamethadol.
16. Betaprodine.
17. Clonitazene.
18. Dextromoramide.
19. Diampromide.
20. Diethylthiambutene.
21. Difenoxin.
22. Dimenoxadol.
23. Dimepheptanol.
24. Dimethylthiambutene.
25. Dioxaphetyl butyrate.
26. Dipipanone.
27. Ethylmethylthiambutene.
28. Etonitazene.

29. Etoxeridine.
30. Flunitrazepam.
- ~~31.30.~~ Furethidine.
- ~~32.31.~~ Hydroxypethidine.
- ~~33.32.~~ Ketobemidone.
- ~~34.33.~~ Levomoramide.
- ~~35.34.~~ Levophenacymorphan.
- ~~36.35.~~ 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- ~~37.36.~~ 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
- ~~38.37.~~ 3-Methylthiofentanyl.
- ~~39.38.~~ 3, 4-Methylenedioxymethamphetamine (MDMA).
- ~~40.39.~~ Morpheridine.
- ~~41.40.~~ Noracymethadol.
- ~~42.41.~~ Norlevorphanol.
- ~~43.42.~~ Normethadone.
- ~~44.43.~~ Norpipanone.
- ~~45.44.~~ Para-Fluorofentanyl.
- ~~46.45.~~ Phenadoxone.
- ~~47.46.~~ Phenampromide.
- ~~48.47.~~ Phenomorphan.
- ~~49.48.~~ Phenoperidine.
- ~~50.49.~~ 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
- ~~51.50.~~ Piritramide.
- ~~52.51.~~ Proheptazine.
- ~~53.52.~~ Properidine.
- ~~54.53.~~ Propiram.
- ~~55.54.~~ Racemoramide.
- ~~56.55.~~ Thenylfentanyl.

~~57.56.~~ Thiofentanyl.

~~58.57.~~ Tilidine.

~~59.58.~~ Trimeperidine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.

~~2.1.~~ 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).

3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).

~~4.2.~~ 4-Bromo-2,5-dimethoxyamphetamine.

5. 4-Bromo-2, 5-dimethoxyphenethylamine.

~~6.3.~~ Bufotenine.

~~7.4.~~ Cannabis.

~~8.5.~~ Cathinone.

~~9.6.~~ Diethyltryptamine.

~~10.7.~~ 2,5-Dimethoxyamphetamine.

~~11.8.~~ 2,5-Dimethoxy-4-ethylamphetamine (DOET).

~~12.9.~~ Dimethyltryptamine.

~~13.10.~~ N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).

~~14.11.~~ N-Ethyl-3-piperidyl benzilate.

~~15.12.~~ N-ethylamphetamine.

~~16.13.~~ Fenethylamine.

~~17.14.~~ N-Hydroxy-3,4-methylenedioxyamphetamine.

~~18.15.~~ Ibogaine.

~~19.16.~~ Lysergic acid diethylamide (LSD).

~~20.17.~~ Mescaline.

21. Methcathinone.

- ~~22.18.~~ 5-Methoxy-3,4-methylenedioxyamphetamine.
- ~~23.19.~~ 4-methoxyamphetamine.
- ~~24.20.~~ 4-Methyl-2,5-dimethoxyamphetamine.
- ~~25.21.~~ 3,4-Methylenedioxy-N-ethylamphetamine.
- ~~26.22.~~ 3,4-Methylenedioxyamphetamine.
- ~~27.23.~~ N-Methyl-3-piperidyl benzilate.
- ~~28.24.~~ N,N-dimethylamphetamine.
- ~~29.25.~~ Parahexyl.
- ~~30.26.~~ Peyote.
- ~~31.27.~~ N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).
- ~~32.28.~~ Psilocybin.
- ~~33.29.~~ Psilocyn.
- ~~34.30.~~ Tetrahydrocannabinols.
- ~~35.31.~~ 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP) (Thiophene analog of phencyclidine).
- ~~36.32.~~ 3,4,5-Trimethoxyamphetamine.

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmefene or isoquinoline alkaloids of opium, including, but not limited to the following:

- a. Raw opium.
- b. Opium extracts.
- c. Opium fluid extracts.
- d. Powdered opium.

- e. Granulated opium.
  - f. Tincture of opium.
  - g. Codeine.
  - h. Ethylmorphine.
  - i. Etorphine hydrochloride.
  - j. Hydrocodone.
  - k. Hydromorphone.
  - l. Levo-alpha-acetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
  - m. Metopon (methyldihydromorphanone).
  - n. Morphine.
  - o. Oxycodone.
  - p. Oxymorphone.
  - q. Thebaine.
2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.
3. Any part of the plant of the species *Papaver somniferum*, L.
4. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.
5. Dronabinol (synthetic THC) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product.
6. Gamma-hydroxy-butyrate (GHB).

(4) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

- (a) Alprazolam.

- (b) Barbital.
- (c) Bromazepam.
- (d) Camazepam.
- (e) Cathine.
- (f) Chloral betaine.
- (g) Chloral hydrate.
- (h) Chlordiazepoxide.
- (i) Clobazam.
- (j) Clonazepam.
- (k) Clorazepate.
- (l) Clotiazepam.
- (m) Cloxazolam.
- (n) Delorazepam.
- (o) Dextropropoxyphene (dosage forms).
- (p) Diazepam.
- (q) Diethylpropion.
- (r) Estazolam.
- (s) Ethchlorvynol.
- (t) Ethinamate.
- (u) Ethyl loflazepate.
- (v) Fencamfamin.
- (w) Fenfluramine.
- ~~(x)(w)~~ Fenproporex.
- (y)(x) Fludiazepam.
- ~~(y)~~ Flunitrazepam.
- (z) Flurazepam.
- (aa) Halazepam.
- (bb) Haloxazolam.

- (cc) Ketazolam.
- (dd) Loprazolam.
- (ee) Lorazepam.
- (ff) Lormetazepam.
- (gg) Mazindol.
- (hh) Mebutamate.
- (ii) Medazepam.
- (jj) Mefenorex.
- (kk) Meprobamate.
- (ll) Methohexital.
- (mm) Methylphenobarbital.
- (nn) Midazolam.
- (oo) Nimetazepam.
- (pp) Nitrazepam.
- (qq) Nordiazepam.
- (rr) Oxazepam.
- (ss) Oxazolam.
- (tt) Paraldehyde.
- (uu) Pemoline.
- (vv) Pentazocine.
- (ww) Phenobarbital.
- (xx) Phentermine.
- (yy) Pinazepam.
- (zz) Pipradrol.
- (aaa) Prazepam.
- (bbb) Propylhexedrine, excluding any patent or proprietary preparation containing propylhexedrine, unless otherwise provided by federal law.
- (ccc) Quazepam.
- (ddd) Tetrazepam.



(eee) SPA[(-)-1 dimethylamino-1, 2 diphenylethane].

(fff) Temazepam.

(ggg) Triazolam.

(hhh) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

Section 2. Paragraph (b) of subsection (1), paragraph (b) of subsection (2), paragraph (c) of subsection (6), and subsection (12) of section 893.13, Florida Statutes, 1996 Supplement, are amended to read:

893.13 Prohibited acts; penalties.—

(1)

(b) Except as provided in this chapter, it is unlawful to sell or deliver in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any mixture containing any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)

(b) Except as provided in this chapter, it is unlawful to purchase in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any mixture containing any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)

(c) Except as provided in this chapter, it is unlawful to possess in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any mixture containing any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(12) Notwithstanding any provision of the laws of this state to the contrary, any unauthorized activity under this section which involves flunitrazepam shall be subject to the same penalties as are provided for in this section for violations involving controlled substances named or described in s. 893.03(1)(a).~~

Section 3. Paragraph (g) is added to subsection (1) of section 893.135, Florida Statutes, 1996 Supplement, to read:

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

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

(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as “trafficking in flunitrazepam.” If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced pursuant to the sentencing guidelines and pay a fine of \$100,000.

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

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first-degree felony of trafficking in flunitrazepam. A person who has been convicted of the first-degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

b. The person’s conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 4. Paragraphs (g) and (h) of subsection (3) of section 921.0012, Florida Statutes, 1996 Supplement, are amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

### (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071(1)	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072(1)	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.

Florida Statute	Felony Degree	Description
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

Florida Statute	Felony Degree	Description
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
<u>893.135(1)(g)1.a.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.</u>
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.

Florida Statute	Felony Degree	Description
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(d)2.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(e)2.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135(1)(f)2.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
<u>893.135 (1)(g)1.b.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.</u>
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.

Section 5. (1) Paragraph (w) of subsection (4) of section 893.03, Florida Statutes, 1996 Supplement, as amended by this act, is repealed.

(2) Subsection (1) shall not take effect unless the substance known as fenfluramine is removed from the schedules of controlled substances in 21

C.F.R. s. 1308. If the substance known as fenfluramine is removed from the schedules of controlled substances in 21 C.F.R. s. 1308, subsection (1) shall take effect on the day that such removal takes effect.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor March 20, 1997.

Filed in Office Secretary of State March 20, 1997.