

1989

Session Law 89-281

Florida Senate & House of Representatives

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S 607 GENERAL BILL/CS/2ND ENG by Judiciary-Criminal; Myers
(Compare CS/H 621, CS/H 1386)
~~Controlled Substances List/Revised~~; adds trafficking offenses re amphetamine;
provides penalties; revises schedules of controlled substances & reenacts certain
provisions to incorporate said amendment in references thereto; provides techni-
cal amendments, etc. Amends 893.03,.135; reenacts various F.S. Effective Date:
10/01/89.

03/21/89 SENATE Prefiled
04/04/89 SENATE Introduced, referred to Judiciary-Criminal -SJ 59
04/14/89 SENATE Extension of time granted Committee Judiciary-Criminal
04/20/89 SENATE On Committee agenda—Judiciary-Criminal, 04/24/89,
10:00 am, Room-2C-(301)
04/24/89 SENATE Comm. Report: CS by Judiciary-Criminal, placed on Cal-
endar -SJ 212
04/27/89 SENATE CS read first time -SJ 225
05/09/89 SENATE Placed on Special Order Calendar -SJ 275; CS passed as
amended; YEAS 37 NAYS 0 -SJ 286; Immediately certified
-SJ 286
05/09/89 HOUSE In Messages
05/17/89 HOUSE Received, referred to Appropriations -HJ 508
05/29/89 HOUSE Withdrawn from Appropriations -HJ 769; Placed on Cal-
endar
05/30/89 HOUSE Placed on Special Order Calendar
05/31/89 HOUSE Substituted for CS/HB 621; Read second time -HJ 919;
Amendments adopted; Read third time; CS passed as
amended; YEAS 113 NAYS 0 -HJ 921
05/31/89 SENATE In Messages
06/01/89 SENATE Was taken up -SJ 783; Concurred; CS passed as amended;
YEAS 35 NAYS 0 -SJ 785
06/01/89 Ordered engrossed, then enrolled -SJ 785
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-281

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	Rudolph <i>RR</i>	Liepshutz <i>ML</i>	1. JCR	FAV/CS
2.	_____	_____	2. _____	_____
3.	_____	_____	3. _____	_____
4.	_____	_____	4. _____	_____

SUBJECT:

Controlled Substances

BILL NO. AND SPONSOR:

CS/SB 607 by
Committee on Judiciary-
Criminal and Senator Myers

I. SUMMARY:

A. Present Situation:

Chapter 893, Florida Statutes, classifies controlled substances into five categories or schedules in order to regulate the manufacture, distribution, and dispensation of narcotics and other dangerous drugs, without interfering in the legitimate businesses of doctors, pharmacists and manufacturers. Florida's schedules are modeled after Title 21, Code of Federal Regulations, Part 1308. Generally, the Florida Legislature's placement of drugs on the controlled substances schedules parallels action taken at the federal level.

Drugs in schedule I, the most strictly controlled category, have a high potential for abuse and no currently accepted medical use in the United States. Schedule I substances, therefore, cannot be prescribed. Drugs in this category include heroin and other opiates and opiate derivatives, as well as many hallucinogenic substances, such as marijuana (cannabis), peyote and lysergic acid diethylamide (LSD). Further, methaqualone is a schedule I substance, despite its limited medical use in treatment.

Schedule II drugs have a high potential for abuse, severely restricted medical use, and abuse of the substance may lead to severe psychological or physical dependence. Cocaine, morphine, amphetamine, methamphetamine and phencyclidine (PCP) are examples of schedule II drugs.

Schedule III controlled substances have less potential for abuse than schedule I or II drugs and some accepted medical use. They may lead to moderate or low physical dependence or high psychological dependence. Substances listed in Schedule III include limited quantities of some narcotic drugs, including codeine, and derivatives of barbituric acid.

Schedule IV substances have a low potential for abuse compared to substances in Schedule III and have currently accepted medical uses. Use of these substances may lead to limited physical or psychological dependence, and, in the case of anabolic steroids, including human chorionic gonadotropins, and other gonadotropins, may lead to physical damage. Other substances in schedule IV include phenobarbital, chlordiazepoxide hydrochloride (librium) and diazepam (valium).

Schedule V controlled substances have a low potential for abuse compared to substances in schedule IV and a currently accepted medical use. Abuse may lead to limited physical or psychological dependence relative to schedule IV substances. Substances in schedule V consist of pyrovalerone, a stimulant, and narcotic compounds containing limited quantities of

narcotic drugs together with non-narcotic active medicinal ingredients.

B. Effect of Proposed Changes:

CS/SB 607 would make several changes to Florida's schedules of controlled substances to further conform them with the federal schedules.

Four drugs would be added to schedules I, II and IV. N,N-dimethylamphetamine would be added to schedule I. This analog of amphetamine and methamphetamine was temporarily placed in schedule I at the federal level during the last year. Although the Drug and Enforcement Administration (DEA) is continuing to gather information about this substance, it does not anticipate any problems at this time with its eventual permanent placement on schedule I.

In addition, the following three drugs would be added to schedules I, II and IV to parallel already existing permanent placement of these substances at the federal level: methyl dihydromorphine (added to schedule I); nabilone (added to schedule II); and not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit (added to schedule IV).

Other common names for certain schedule I controlled substance analogs would be added in parentheses after the current listings of these substances in that schedule to reflect the way in which those substances are listed on federal schedule I.

Alfentanil would be moved from schedule I to schedule II in recognition of the rescheduling of this substance at the federal level in order to allow for its medical use as a sedative in anesthesia.

Dronabinol, a schedule II controlled substance, would be removed from its inappropriate placement with opium derivatives listed within that schedule and would be separately listed within schedule II.

The broad category of gonadotropins, which, currently, are controlled as anabolic steroids in schedule IV, would be reduced to a smaller group of drugs that are the subject of abuse. Gonadotropins, for purposes of schedule IV, would consist solely of human chorionic gonadotropins and human growth hormones (growth stimulating hormones).

The misspellings of two currently listed schedule I controlled substances would be corrected to read "Etoxidine" and "2-Amino-4-methyl-5-phenyl-2-oxazoline."

Finally, pages 15-32 of CS/SB 607 would provide technical republication of various sections of the Florida Statutes which specifically cross-reference the controlled substances schedules in s. 893.03, F.S. The purpose of republication would be to incorporate the changes proposed by this bill.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

According to the Department of Corrections, CS/SB 607 would have little or no impact on the offender population.

REVISED: _____

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DATE: April 24, 1989

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III. COMMENTS:

None.

IV. AMENDMENTS:

None.

AS PASSED BY THE 1989 LEGISLATURE

STORAGE NAME: s0607.cj
 DATE: June 28, 1989

HOUSE OF REPRESENTATIVES
 COMMITTEE ON CRIMINAL JUSTICE
 FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/SB 607

RELATING TO: Controlled Substances

SPONSOR(S): Committee on Judiciary-Criminal and Senator Myers

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-281, Laws of Florida

COMPANION BILL(S): HB 621, HB 1386

OTHER COMMITTEES OF REFERENCE: (1) Judiciary-Criminal
 (2)

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 893, F. S., classifies controlled substances into five categories or schedules in order to regulate the manufacture, distribution, and dispensation of narcotics and other dangerous drugs, without interfering in the legitimate businesses of doctors, pharmacists and manufacturers. Florida's schedules are modeled after Title 21, Code of Federal Regulations, Part 1308. Generally, the Florida Legislature's placement of drugs on the controlled substances schedules parallels action taken at the federal level.

Drugs in Schedule I, the most strictly controlled category, have a high potential for abuse and no currently accepted medical use in the United States. Schedule I substances, therefore, cannot be prescribed. Drugs in this category include heroin and other opiates and opiate derivatives, as well as many hallucinogenic substances, such as marijuana (cannabis), peyote and lysergic acid diethylamide (LSD). Further, methaqualone is a Schedule I substance, despite its limited medical use in treatment.

Schedule II drugs have a high potential for abuse, severely restricted medical use, and abuse of the substance may lead to severe psychological or physical dependence. Cocaine, morphine, amphetamine, methamphetamine and phencyclidine (PCP) are examples of Schedule II drugs.

Schedule III controlled substances have less potential for abuse than Schedule I or II drugs and some accepted medical use. They

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may lead to moderate or low physical dependence or high psychological dependence. Substances listed in Schedule III include limited quantities of some narcotic drugs, including codeine, and derivatives of barbituric acid.

Schedule IV substances have a low potential for abuse compared to substances in Schedule III and have currently accepted medical uses. Use of these substances may lead to limited physical or psychological dependence, and, in the case of anabolic steroids, including human chorionic gonadotropins, and other gonadotropins, may lead to physical damage. Other substances in Schedule IV include phenobarbital, chlordiazepoxide hydrochloride (librium) and diazepam (valium).

Schedule V controlled substances have a low potential for abuse compared to substances in Schedule IV and a currently accepted medical use. Abuse may lead to limited physical or psychological dependence relative to Schedule IV substances. Substances in Schedule V consist of pyrovalerone, a stimulant, and narcotic compounds containing limited quantities of narcotic drugs together with non-narcotic active medicinal ingredients.

Section 893.13, F. S., provides penalties for unlawful sale, purchase, manufacture, delivery, or possession of a controlled substance, except when authorized. Punishment for possession of specific controlled substances and the degree of crime is dependent upon the type and amount of the substance. Except for "trafficking", which calls for mandatory minimum sentences, punishment for violations of chapter 893 are governed by s. 775.082, or 775.083, or 775.084.

Alfentanil was added last year in Schedule I because it was scheduled in the same way by the United States Attorney General pursuant to the Federal regulations, subject to an application to the Food and Drug Administration which when approved would cause the rescheduling of this drug. Schedule I substances have no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.

Amphetamine and methamphetamine are currently listed in Schedule II(c) which would include any material, compound, mixture, or preparation which contains any quantity of these substances. Section 893.13 provides that any person who brings into this state any controlled substance, unless the possession of such controlled substance is authorized, is guilty of a felony of the third degree, which is punishable by a term of imprisonment not exceeding five years, or a fine of \$5,000.

B. EFFECT OF PROPOSED CHANGES:

This bill would make several changes to Florida's schedules of controlled substances to further conform them with the federal schedules.

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Four drugs would be added to Schedules I, II and IV. N,N-dimethylamphetamine would be added to Schedule I. This analog of amphetamine and methamphetamine was temporarily placed in Schedule I at the federal level during the last year. Although the Drug and Enforcement Administration (DEA) is continuing to gather information about this substance, it does not anticipate any problems at this time with its eventual permanent placement on Schedule I.

In addition, the following three drugs would be added to Schedules I, II and IV to parallel already existing permanent placement of these substances at the federal level: methyldihydromorphine (added to Schedule I); nabilone (added to Schedule II); and not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit (added to Schedule IV).

Other common names for certain Schedule I controlled substance analogs would be added in parentheses after the current listings of these substances in that schedule to reflect the way in which those substances are listed on federal Schedule I.

Alfentanil would be moved from Schedule I to Schedule II in recognition of the rescheduling of this substance at the federal level in order to allow for its medical use as a sedative in anesthesia.

Dronabinol, a Schedule II controlled substance, would be removed from its inappropriate placement with opium derivatives listed within that schedule and would be separately listed within Schedule II.

The broad category of gonadotropins, which currently are controlled as anabolic steroids in Schedule IV, would be reduced to a smaller group of drugs that are the subject of abuse. Gonadotropins, for purposes of Schedule IV, would consist solely of human chorionic gonadotropins and human growth hormones (growth stimulating hormones).

The misspellings of two currently listed Schedule I controlled substances would be corrected to read "Etoxaeridine" and "2-Amino-4-methyl-5-phenyl-2-oxazoline."

The bill would provide technical republication of various sections of the Florida Statutes which specifically cross-reference the controlled substances schedules in s. 893.03, F. S. The purpose of republication would be to incorporate the changes proposed by this bill.

The bill further creates a first degree felony for a person to knowingly sell, purchase, manufacture or have in his constructive possession 14 grams or more of amphetamine or methamphetamine or any mixture containing amphetamine or methamphetamine or specific precursor drugs - such as phenylacetone or phenylacetic acid - that in conjunction with other chemicals are used to manufacture

amphetamine or methamphetamine. The bill creates punishment for trafficking in amphetamine if the quantity involved is:

- * 14 grams or more, but less than 28 grams, the person shall be sentenced to a three calendar year mandatory term of imprisonment and pay a fine of \$50,000.
- * 28 grams or more, but less than 200 grams, the person shall be sentenced to a mandatory minimum term of five calendar years and shall pay a fine of \$100,000.
- * 200 grams or more, such person shall be sentenced to a mandatory term of 15 calendar years and pay a fine of \$250,000.

Methamphetamine is street packaged in plastic wrap, aluminum foil, capsules or tablets of various sizes and colors. The street names for Methamphetamine include, crank, crystal, meth, speed, go-fast, go, and crystal meth, to name just a few.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 893.135, F. S., to create a first degree felony for a person to knowingly sell, purchase, manufacture or have in his constructive possession 14 grams or more of amphetamine or methamphetamine or any mixture containing amphetamine or methamphetamine or specific precursor drugs.

Section 2 is a technical re-enactment of several sections of the statutes for the purpose of updating cross-references to the sections amended by the bill.

Section 3 amends s. 893.03, F. S., to conform Florida's schedules of controlled substances to recent changes in the federal law.

Section 4 is a technical re-enactment of several sections of the statutes for the purpose of updating cross-references to the sections amended by the bill.

Section 5 provides an effective date of October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

According to Economic and Demographic Research of the Joint Legislative Management Committee, this bill is not anticipated to have a significant fiscal impact. Information from the Florida Department of Law Enforcement drug testing laboratory indicates that less than one-half of one percent of the drugs tested were amphetamine or methamphetamine. The Department of Corrections has had one admission for possession of amphetamine for the first seven months of Fiscal Year 1988-89. Thus the impact is not significant. Should the use of amphetamines increase at some time in the future, then the law would have a fiscal impact.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the state comprehensive plan in that it seeks to prevent, punish and discourage criminal behavior.

IV. COMMENTS:

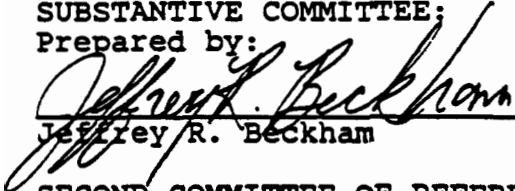
The Pharmacists Association of Florida and The Department of Professional Regulation support this bill.

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This bill is consistent with the Criminal Justice Committee Mission Statement in that it seeks means by which the criminal justice system might work more effectively.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by:



Jeffrey R. Beckham

Staff Director:



Robin S. Hassler

SECOND COMMITTEE OF REFERENCE:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director:

Staff Director:
