

Appropriations

FISCAL NOTE

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole.

I. Description of Bill

A. Fund or Tax Affected

B. Principal Agency Affected Department of Corrections

C. Statement of Purpose

The purpose of the bill is to provide increased penalties for "trafficking in phencyclidine" (commonly known as PCP) and for "trafficking in methaqualone" (commonly known as Quaalude).

D. Narrative Summary

The bill increases the penalties for the sale, manufacture, delivery, possession, and importation of phencyclidine and methaqualone from a third degree felony (having a five year maximum sentence) to a first degree felony (having a thirty year maximum sentence) and provides minimum mandatory sentences and fines, depending on the amount of the drug involved. If the quantity involved is greater than 28 grams and less than 200 grams, the minimum sentence shall be 3 years with a fine of \$50,000. If the quantity is greater than 200 grams and less than 400 grams, the minimum sentence shall be 5 years with a fine of \$100,000. If the quantity is greater than 400 grams, the minimum sentence shall be 15 years with a \$250,000 fine.

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DEPARTMENT OF LEGISLATIVE SERVICES  
TELEPHONE: 391-2000  
SERIES: 17  
FILE NUMBER: 647

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

The Department of Law Enforcement statistics indicate a total of 350 arrests were made in 1979 for the sale or possession of "other depressant drugs", the category into which the drugs at issue would fall. This is a 154% increase over the previous year. There are no specific figures attributable to either the number of arrests or convictions for the two drugs at issue, so the fiscal impact, while substantial, is indeterminable. A significant number of convictions could result in the need for additional facilities at a cost of about \$27,000 per bed and an annual housing cost of approximately \$5,300 annually.

III. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

A. Non-Recurring or First Year Start-up Effects

NONE

B. Recurring or Annualized Continuation Effects

NONE

C. Long Run Effects other than Normal Growth

NONE

IV. COMMENTS: For every person arrested and convicted under this bill the annual recurring cost's could be \$5,300 or more. Fixed capital costs for construction of one new prison bed is \$27,000.

John T. Hendon  
Staff Director

Date of meeting May 23, 1980

Time 8:00 a.m.

Place Morris Hall

FINAL ACTION:  FAVORABLE  
 FAVORABLE WITH \_\_\_\_\_ AMENDMENTS  
 FAVORABLE WITH SUBSTITUTE  
 UNFAVORABLE

VOTE:

YEA	MEMBER	NAY
X	BATCHELOR, Dick	
X	BELL, Samuel P.	
X	BURNSED, Beverly	
X	CARLTON, Fran	
	CONWAY, William	
X	EASLEY, Betty	
X	GALLAGHER, Tom	
X	GORDON, Elaine	
X	GUSTAFSON, Tom	
X	HATTAWAY, Bob	
X	HAZOURI, Tommy	
X	HODES, Richard S.	
	HODGES, Gene	
X	JONES, C. Fred	
X	KUTUN, Barry	

Total  
Yeas 28

YEA	MEMBER	NAY
X	LEWIS, Thomas F.	
X	MALLOY, John C.	
X	MANN, Franklin B	
X	MARGOLIS, Gwen	
X	MARTIN, Sidney	
X	MICA, John L.	
X	MOFFITT, H. Lee	
X	PAJCIC, Steve	
X	ROBINSON, Grover	
X	SADOWSKI, Bill	
	SHELDON, George	
X	THOMPSON, James	
X	WARD, James G.	
X	YOUNG, Walter C.	
X	MORGAN, Herbert F.	

Total  
Nays -0-

X LEWIS, John W.

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*Herbert F. Lyons*  
Chairman

COMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

Name    Representing    Address

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(If additional persons, enter on reverse side and check here)

February 8, 1980

HB 263 by Representative Tygart

Provides minimum mandatory sentences for trafficking in large quantities of Phencyclidine. (PCP)

Other Committees of Reference

Appropriations

19 763

I. Statement of the Problem

Introducer believes that minimum mandatory sentences should be imposed for trafficking in large quantities of Phencyclidine.

II. Fiscal Impact

The fiscal impact of this bill is difficult to ascertain. The Department of Law Enforcement's data indicates that there were in excess of 29,000 arrests for drug-related offenses during fiscal year 1977-78. However, statistics are not available on the number of convictions obtained from the drug arrests or the type of drug and the quantity in possession of a defendant. Further, we are not able to determine how much prison time a defendant serves under the present statute when compared to the minimums in the proposed legislation.

Finally, the number of defendants who will plead to a lesser charge as probation in lieu of the mandatory sentences (after giving substantial assistance to the prosecution) is not possible to project. However, the impact for the next few years would appear to be minimal according to the best estimates of those agencies primarily affected.

III. Comments

A. Discussion

This bill would create the crime of trafficking in phencyclidine. The sale, manufacture, delivery, possession or bringing into this state of 28 grams or more of PCP would become a first degree felony under section 893.135, Florida Statutes. The minimum mandatory penalties, increased fines, and special provisions for sentencing under the trafficking section would apply to large quantities of PCP as it now does to marijuana, cocaine, opium and morphine.

February 8, 1980

The committee should also be aware that PCP can be made by combining two commercially available chemicals which have other legitimate uses. Therefore, many of the problems inherent in smuggling large quantities of other types of drugs into the country do not exist for those trafficking in PCP.

B. Constitutionality

Several circuit courts in the 11th Judicial Circuit have recently held section 893.135 unconstitutional, largely because of the substantial assistance provision. However, the change proposed by this bill does not affect the issue before the court or go to the alleged defect forming the basis of the challenge.

C. Legislative Intent

Adequately expressed.



SENATOR JOE CARLUCCI  
8th District

## THE FLORIDA SENATE

District Office Address:  
3733 University Boulevard, West  
Suite 117  
Jacksonville, Florida 32217  
(904) 733-8888

MAR 24 1980  
MJC


COMMITTEES:  
Executive Business  
Judiciary-Criminal  
Natural Resources & Conservation

JOINT COMMITTEE:  
Legislative Auditing

March 19, 1980

### MEMORANDUM

TO: Paul Liepshutz, Staff Director  
Judiciary-Criminal

FROM: Senator Joe Carlucci 

RE: Senate Bill 296, Trafficking in Methaqualone

It is requested that Senate Bill 296 be agendaed at one of your meetings in early April.

I intended to have a companion bill introduced in the House. However, the substance of Senate Bill 296 was amended onto another bill (HB 263) by the House Subcommittee on Law Enforcement, Drugs and Miscellaneous. A copy of the amendment is attached for your information.

JC/cb

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Do NOT use felt tip pen — Typewrite if possible.  
Do NOT use paste-up of printed bill or reduced copy of 8 x 14 bill.

See back of form  
for instructions

If amendment is text of another bill, insert:  
Bill No. .... or Draft No. ....  
.....

HB ~~##~~ 263  
SB .....

Representative  Tygart  
(PLEASE PRINT)

..... offered the following ..... amendment:

Amendment ..... On page 2, line 5, ~~xxxx~~

**COPY**  
FLORIDA LEGISLATIVE  
DEPARTMENT  
TALLAHASSEE, FLORIDA 32310  
TELEPHONE: 904-224-3311  
FACSIMILE: 904-224-3312  
File # 10-331

and insert: (e) Any person who knowingly sells, manufacturers, delivers,  
or brings into this state, or who is knowingly in actual or construc-  
tive possession of, 200 grams or more of methaqualone or of any mixture  
containing methaqualone, as described in s. 893.03(2)(c), is guilty  
of a felony of the first degree, which felony shall be known as  
"trafficking in methaqualone." If the quantity involved:  
1. Is 200 grams or more, but less than 5 kilograms, such  
person shall be sentenced to a mandatory minimum term of imprisonment  
of 3 calendar years and to pay a fine of \$50,000.  
2. Is 5 kilograms or more, but less than 25 kilograms, such  
person shall be sentenced to a mandatory minimum term of imprisonment  
of 5 calendar years and to pay a fine of \$100,000.  
3. Is 25 kilograms or more, such person shall be sentenced  
to a mandatory minimum term of imprisonment of 15 calendar years  
and to pay a fine of \$250,000.

Mr. Tygart ..... moved the adoption of the amendment,

which was adopted.

which failed of adoption.

By Senator Carlucci

1 (3) The state attorney may move the sentencing court  
 2 to reduce or suspend the sentence of any person who is  
 3 convicted of a violation of this section and who provides  
 4 substantial assistance in the identification, arrest, or  
 5 conviction of any of his accomplices, accessories, co-  
 6 conspirators, or principals. The arresting agency shall be  
 7 given an opportunity to be heard in aggravation or mitigation  
 8 in reference to any such motion. Upon good cause shown, the  
 9 motion may be filed and heard in camera. The judge hearing  
 10 the motion may reduce or suspend the sentence if he finds that  
 11 the defendant rendered such substantial assistance.

12 Section 2. This act shall take effect October 1, 1980.

13 \*\*\*\*\*

14 SENATE SUMMARY

15 Creates the first degree felony of trafficking in  
 16 methaqualone and prescribes mandatory minimum sentences  
 17 for such felony. If the amount is at least 200 grams but  
 18 less than 5 kilograms, the mandatory minimum sentence is  
 19 3 years and a fine of \$50,000. If the amount is at least  
 20 5 kilograms but less than 25 kilograms, the mandatory  
 21 minimum sentence is 5 years and a fine of \$100,000. If  
 22 the amount is 25 kilograms or more, the mandatory minimum  
 23 sentence is 15 years and a fine of \$250,000.

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1 A bill to be entitled  
 2 An act relating to drug trafficking; amending  
 3 s. 893.135, Florida Statutes; creating the  
 4 crime of trafficking in methaqualone; providing  
 5 mandatory minimum penalties; providing  
 6 circumstances for reduction or suspension of  
 7 sentence; providing an effective date.

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

9 Section 1. Section 893.135, Florida Statutes, is  
10 amended to read:

11 893.135 Trafficking; mandatory sentences; suspension  
12 or reduction of sentences.--

13 (1) Except as authorized in this chapter or in chapter  
14 500:

15 (a) Any person who knowingly sells, manufactures,  
 16 delivers, or brings into this state, or who is knowingly in  
 17 actual or constructive possession of, in excess of 100 pounds  
 18 of cannabis is guilty of a felony of the first degree, which  
 19 felony shall be known as "trafficking in cannabis." If the  
 20 quantity of cannabis involved:

21 1. Is in excess of 100 pounds, but less than 2,000  
 22 pounds, such person shall be sentenced to a mandatory minimum  
 23 term of imprisonment of 3 calendar years and to pay a fine of  
 24 \$25,000.

25 2. Is 2,000 pounds or more, but less than 10,000  
 26 pounds, such person shall be sentenced to a mandatory minimum  
 27 term of imprisonment of 5 calendar years and to pay a fine of  
 28 \$50,000.

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1 3. Is 10,000 pounds or more, such person shall be  
2 sentenced to a mandatory minimum term of imprisonment of 15  
3 calendar years and to pay a fine of \$200,000.

4 (b) Any person who knowingly sells, manufactures,  
5 delivers, or brings into this state, or who is knowingly in  
6 actual or constructive possession of, 28 grams or more of  
7 cocaine or of any mixture containing cocaine, as described in  
8 s. 893.03(2)(a), is guilty of a felony of the first degree,  
9 which felony shall be known as "trafficking in cocaine." If  
10 the quantity involved:

11 1. Is 28 grams or more, but less than 200 grams, such  
12 person shall be sentenced to a mandatory minimum term of  
13 imprisonment of 3 calendar years and to pay a fine of \$50,000.

14 2. Is 200 grams or more, but less than 400 grams, such  
15 person shall be sentenced to a mandatory minimum term of  
16 imprisonment of 5 calendar years and to pay a fine of  
17 \$100,000.

18 3. Is 400 grams or more, such person shall be  
19 sentenced to a mandatory minimum term of imprisonment of 15  
20 calendar years and to pay a fine of \$250,000.

21 (c) Any person who knowingly sells, manufactures,  
22 delivers, or brings into this state, or who is knowingly in  
23 actual or constructive possession of, 4 grams or more of any  
24 morphine, opium, or any salt, isomer, or salt of an isomer  
25 thereof, including heroin, as described in s. 893.03(1)(b) or  
26 (2)(a), or 4 grams or more of any mixture containing any such  
27 substance, is guilty of a felony of the first degree, which  
28 felony shall be known as "trafficking in illegal drugs." If  
29 the quantity involved:

30 1. Is 4 grams or more, but less than 14 grams, such  
31 person shall be sentenced to a mandatory minimum term of

1 imprisonment of 3 calendar years and to pay a fine of \$50,000.

2 2. Is 14 grams or more, but less than 28 grams, such  
3 person shall be sentenced to a mandatory minimum term of  
4 imprisonment of 10 calendar years and to pay a fine of  
5 \$100,000.

6 3. Is 28 grams or more, such person shall be sentenced  
7 to a mandatory minimum term of imprisonment of 25 calendar  
8 years and to pay a fine of \$500,000.

9 (d) Any person who knowingly sells, manufactures,  
10 delivers, or brings into this state, or who is knowingly in  
11 actual or constructive possession of, 200 grams or more of  
12 methaqualone or of any mixture containing methaqualone, as  
13 described in s. 893.03(2)(c), is guilty of a felony of the  
14 first degree, which felony shall be known as "trafficking in  
15 methaqualone". If the quantity involved:

16 1. Is 200 grams or more, but less than 5 kilograms,  
17 such person shall be sentenced to a mandatory minimum term of  
18 imprisonment of 3 calendar years and to pay a fine of \$50,000.

19 2. Is 5 kilograms or more, but less than 25 kilograms,  
20 such person shall be sentenced to a mandatory minimum term of  
21 imprisonment of 5 calendar years and to pay a fine of  
22 \$100,000.

23 3. Is 25 kilograms or more, such person shall be  
24 sentenced to a mandatory minimum term of imprisonment of 15  
25 calendar years and to pay a fine of \$250,000.

26 (2) Notwithstanding the provisions of s. 948.01, with  
27 respect to any person who is found to have violated this  
28 section, adjudication of guilt or imposition of sentence shall  
29 not be suspended, deferred, or withheld, nor shall such person  
30 be eligible for parole prior to serving the mandatory minimum  
31 term of imprisonment prescribed by this section.

Passed as CS on 4-30-80

189-135-4-0

A bill to be entitled

1: btc

An act relating to controlled drugs; amending

1.5

s. 893.135(1), Florida Statutes; making it

unlawful to knowingly sell, manufacture,

1.5/2

deliver, bring into the state, or to knowingly

1.5/3

be in actual or constructive possession of

specified amounts of phencyclidine and

1.5/4

methaqualone; providing penalties; prescribing

1.5/5

mandatory fines and mandatory minimum terms of

imprisonment; amending s. 893.13(1)(a) and (b),

1.5/6

Florida Statutes; conforming language;

providing an effective date.

1.5/8

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18  
937

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

1: enc

Section 1. Subsection (1) of section 893.135, Florida

1.5/9

Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension

1.5/10

or reduction of sentences.--

(1) Except as authorized in this chapter or in chapter

1.5/11

500 and notwithstanding the provisions of s. 893.13:

1.5/12

(a) Any person who knowingly sells, manufactures,

1.5/13

delivers, or brings into this state, or who is knowingly in

1.5/15

actual or constructive possession of, in excess of 100 pounds

of cannabis is guilty of a felony of the first degree, which

1.5/17

felony shall be known as "trafficking in cannabis." If the

1.5/18

quantity of cannabis involved:

1. Is in excess of 100 pounds, but less than 2,000

1.5/18

pounds, such person shall be sentenced to a mandatory minimum

1.5/20

term of imprisonment of 3 calendar years and to pay a fine of

\$25,000.

1	2. Is 2,000 pounds or more, but less than 10,000	1.5/21
2	pounds, such person shall be sentenced to a mandatory minimum	
3	term of imprisonment of 5 calendar years and to pay a fine of	1.5/22
4	\$50,000.	
5	3. Is 10,000 pounds or more, such person shall be	1.5/23
6	sentenced to a mandatory minimum term of imprisonment of 15	
7	calendar years and to pay a fine of \$200,000.	1.5/24
8	(b) Any person who knowingly sells, manufactures,	1.5/24
9	delivers, or brings into this state, or who is knowingly in	1.5/26
10	actual or constructive possession of, 28 grams or more of	
11	cocaine or of any mixture containing cocaine, as described in	1.5/28
12	s. 893.03(2)(a), is guilty of a felony of the first degree,	
13	which felony shall be known as "trafficking in cocaine." If	1.5/30
14	the quantity involved:	
15	1. Is 28 grams or more, but less than 200 grams, such	1.5/30
16	person shall be sentenced to a mandatory minimum term of	1.5/32
17	imprisonment of 3 calendar years and to pay a fine of \$50,000.	
18	2. Is 200 grams or more, but less than 400 grams, such	1.5/33
19	person shall be sentenced to a mandatory minimum term of	1.5/34
20	imprisonment of 5 calendar years and to pay a fine of	
21	\$100,000.	
22	3. Is 400 grams or more, such person shall be	1.5/36
23	sentenced to a mandatory minimum term of imprisonment of 15	
24	calendar years and to pay a fine of \$250,000.	
25	(c) Any person who knowingly sells, manufactures,	1.5/37
26	delivers, or brings into this state, or who is knowingly in	1.5/38
27	actual or constructive possession of, 4 grams or more of any	1.5/40
28	morphine, opium, or any salt, isomer, or salt of an isomer	
29	thereof, including heroin, as described in s. 893.03(1)(b) or	1.5/41
30	(2)(a), or 4 grams or more of any mixture containing any such	1.5/42
31	substance, is guilty of a felony of the first degree, which	1.5/43

1	felony shall be known as "trafficking in illegal drugs." If	1.5/45
2	the quantity involved:	
3	1. Is 4 grams or more, but less than 14 grams, such	1.5/45
4	person shall be sentenced to a mandatory minimum term of	1.5/46
5	imprisonment of 3 calendar years and to pay a fine of \$50,000.	
6	2. Is 14 grams or more, but less than 28 grams, such	1.5/47
7	person shall be sentenced to a mandatory minimum term of	
8	imprisonment of 10 calendar years and to pay a fine of	1.5/48
9	\$100,000.	
10	3. Is 28 grams or more, such person shall be sentenced	1.5/48
11	to a mandatory minimum term of imprisonment of 25 calendar	1.5/49
12	years and to pay a fine of \$500,000.	
13	(d) <u>Any person who knowingly sells, manufactures,</u>	1:lus
14	<u>delivers, or brings into this state, or who is knowingly in</u>	1.15/1
15	<u>actual or constructive possession of, 28 grams or more of</u>	
16	<u>phencyclidine or of any mixture containing phencyclidine, as</u>	1.15/3
17	<u>described in s. 893.03(2)(c), is guilty of a felony of the</u>	1.15/6
18	<u>first degree, which felony shall be known as "trafficking in</u>	
19	<u>phencyclidine." If the quantity involved:</u>	1.15/8
20	<u>1. Is 28 grams or more, but less than 200 grams, such</u>	1:lus
21	<u>person shall be sentenced to a mandatory minimum term of</u>	1.23
22	<u>imprisonment of 3 calendar years and to pay a fine of \$50,000.</u>	
23	<u>2. Is 200 grams or more, but less than 400 grams, such</u>	1.24
24	<u>person shall be sentenced to a mandatory minimum term of</u>	1.25
25	<u>imprisonment of 5 calendar years and to pay a fine of</u>	
26	<u>\$100,000.</u>	
27	<u>3. Is 400 grams or more, such person shall be</u>	1.27
28	<u>sentenced to a mandatory minimum term of imprisonment of 15</u>	
29	<u>calendar years and to pay a fine of \$250,000.</u>	1.27/1
30	(e) <u>Any person who knowingly sells, manufactures,</u>	1:lus
31	<u>delivers, or brings into this state, or who is knowingly in</u>	1.27/3

1 actual or constructive possession of, 200 grams or more of  
2 methaqualone or of any mixture containing methaqualone, as 1.27/4  
3 described in s. 893.03(2)(c), is guilty of a felony of the 1.27/5  
4 first degree, which felony shall be known as "trafficking in  
5 methaqualone." If the quantity involved: 1.27/6  
6 1. Is 200 grams or more, but less than 5 kilograms, 1:1us  
7 such person shall be sentenced to a mandatory minimum term of 1.27/7  
8 imprisonment of 3 calendar years and to pay a fine of \$50,000. 1.27/8  
9 2. Is 5 kilograms or more, but less than 25 kilograms, 1:1us  
10 such person shall be sentenced to a mandatory minimum term of 1.27/9  
11 imprisonment of 5 calendar years and to pay a fine of 1.27/10  
12 \$100,000.  
13 3. Is 25 kilograms or more, such person shall be 1:1us  
14 sentenced to a mandatory minimum term of imprisonment of 15 1.27/11  
15 calendar years and to pay a fine of \$250,000. 1.27/12  
16 Section 2. Paragraphs (a) and (b) of subsection (1) of 1.27/12  
17 section 893.13, Florida Statutes, are amended to read: 1.27/13  
18 893.13 Prohibited acts; penalties.-- 1.27/13  
19 (1)(a) Except as authorized by this chapter and 1.27/14  
20 chapter 500, it is unlawful for any person to sell, 1.27/15  
21 manufacture, or deliver, or possess with intent to sell,  
22 manufacture, or deliver, a controlled substance. Any person 1.27/17  
23 who violates this provision with respect to:  
24 1. A controlled substance named or described in s. 1.27/18  
25 893.03(1)(a), (1)(b), (2)(a), or (2)(b) is guilty of a felony 1.27/19  
26 of the second degree, punishable as provided in ss. 775.082,  
27 775.083, and 775.084. 1.27/20  
28 2. A controlled substance named or described in s. 1.27/21  
29 893.03(1)(c), (2)(c), (3), or (4) is guilty of a felony of the  
30 third degree, punishable as provided in s. 775.082, s. 1.27/22  
31 775.083, or s. 775.084, ~~except that the sale, delivery, or~~ 1.27/23

1	<del>possession of in excess of 100 pounds of cannabis as</del>	1.27/24
2	<del>controlled in s. 893.03(1)(c) shall be punishable as provided</del>	
3	<del>in s. 893.135.</del>	
4	3. A controlled substance named or described in s.	1.27/25
5	893.03(5) is guilty of a misdemeanor of the first degree,	1.27/26
6	punishable as provided in s. 775.082 or s. 775.083.	
7	(b) Except as provided in this chapter, it is unlawful	1.27/27
8	to sell, deliver, or possess in excess of 10 grams of any	1.27/28
9	substance named or described in s. 893.03(1)(a) or (1)(b), or	1.27/29
10	any combination thereof. <del>This paragraph, however, shall not</del>	1:105
11	<del>apply to any act prescribed by s. 893.135.</del> Any person who	1.27/31
12	violates this paragraph is guilty of a felony of the first	
13	degree, punishable as provided in ss. 775.082, 775.083, and	1.27/32
14	775.084.	
15	Section 3. This act shall take effect upon becoming a	1.27/33
16	law.	
17		
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R.W. Evans	P. Liepshutz	1. J. Crim.	Fav/CS
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

BILL No. AND SPONSOR:  
CS/SB 296 by  
Judiciary-Criminal &  
Senator Carlucci

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 FILE FOLDER  
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 Tallahassee Florida 32301-0280  
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I. SUMMARY:

A. Present Situation:

Section 893.135, Florida Statutes, created the crimes of trafficking in marijuana, trafficking in cocaine, and trafficking in illegal drugs (morphine and opium). The section provides mandatory minimum penalties and additional fines for each of the crimes created. Provision is also made for reduction or suspension of sentence, upon appropriate motion by the state attorney, where the defendant has been convicted under the section and has given substantial assistance in the identification, arrest or conviction of any of his accomplices; co-conspirators, accessories or principals. The arresting agency is given the opportunity to be heard in aggravation or mitigation of any such motion. Upon good cause shown, the motion may be filed and heard in camera.

Methaqualone, commonly known as quaaludes, is currently classified as a Schedule II controlled substance by s. 893.03(2)(c). Section 893.13 prohibits the unauthorized manufacture, sale, delivery, possession or bringing into this state of any controlled substance. Violation of s. 893.13, with respect to any drug enumerated in s. 893.03(2)(c), including Methaqualone, is made a third degree felony by s. 893.13(1)(a)2. or s. 893.13(1)(d)2. In addition, the unauthorized delivery of Methaqualone by an adult to someone under the age of 18 years is made a second degree felony by s. 893.13(1)(c)2. Punishment for a second degree and third degree felony under s. 893.13 is provided in ss. 775.082, 775.083 or s. 775.084.

Phencyclidine, commonly known as PCP, is currently classified as a Schedule II controlled substance by section 893.03(2)(c). Section 893.13 prohibits the unauthorized manufacture, sale, delivery, possession or bringing into this state of any controlled substance. Violation of section 893.13, with respect to any drug enumerated in section 893.03(2)(c), including PCP, is made a third degree felony by section 893.13(1)(a)2 or section 893.13(1)(d)2. In addition, the unauthorized delivery of PCP by an adult to someone under the age of 18 years is made a second degree felony by section 893.13(1)(c)2. Punishment for a second degree and third degree felony under section 893.13 is provided in sections 775.082, 775.083 or 775.084.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: R.W.Evang  
Staff Director: P.Liepshutz  
Subject: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

Bill No. And Sponsor: CS/SB 296  
by Judiciary-Criminal and Senator Carlucci

B. Effect of Proposed Changes:

This bill would create the crime of trafficking in Methaqualone and Phencyclidine. The sale, manufacture, delivery, possession or bringing into this state of 200 grams or more of Methaqualone would become a first degree felony under s. 893.135. Also, the sale, manufacture, delivery, possession or bringing into this state of 28 grams or more of Phencyclidine would become a first degree felony under s. 893.135. The minimum mandatory penalties, increased fines, and special provisions for sentencing under the trafficking section would apply to large quantities of Methaqualone and Phencyclidine as it now does to marijuana, cocaine, opium and morphine.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: Indeterminate.

B. Government: The fiscal impact of this bill is difficult to ascertain. The Department of Law Enforcement's data indicates that there were in excess of 29,000 arrests for drug-related offenses during FY 1977-78. However, statistics are not available on the number of convictions obtained from the drug arrests or the type of drug and the quantity in possession of a defendant.

Further, we are not able to determine how much prison time a defendant serves under the present statute when compared to the minimums in the proposed legislation.

Finally, the number of defendants who will receive a reduced or suspended sentence in lieu of the mandatory sentences (after giving substantial assistance to the prosecution) is not possible to project. However, the impact for the next few years would appear to be minimal according to the best estimates of those agencies primarily affected.

III. COMMENTS:

Presumably, the trafficking statute was designed to place particular emphasis on the most prevalent of the abused drugs. The nature of the drug and its detrimental effect on the well-being of both the individual and society were apparently factors considered in the enumeration of particular drugs for special treatment under the trafficking statute. Methaqualone and phencyclidine have the necessary detrimental effects and apparently share similar propensities for abuse; thus, a strong argument can be made for their inclusion in the trafficking statute.

This bill, as drafted, may create a duplication of penalties unless s. 893.13 is amended to except those quantities of Methaqualone and Phencyclidine to be covered by the trafficking section. Such an exception was made for large quantities of marijuana when the existing trafficking statute was created. However, certain other drugs, covered by the trafficking statute, such as cocaine, were not excepted from s. 893.13, and thus, violations involving large quantities of these drugs may be prosecuted under either section. This duplication and any possible conflict could be eliminated by making the trafficking statute the exclusive provision for those



SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: R.W. Evans  
Staff Director: P. Liepshutz  
Subject: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

Bill No. And Sponsor:  
CS/SB 296 by Judiciary-Criminal and Senator Carlucci

Several circuit courts in the 11th Judicial Circuit have recently held section 893.135 unconstitutional, largely because of the substantial assistance provision. However, the change proposed by this bill does not affect the issue before the court or go to the alleged defect forming the basis of the challenge. Although it is possible that the Supreme Court could hold the entire section unconstitutional, it is anticipated that the alleged infirmities will be susceptible to correction.

In addition, it is believed that if the Court strikes s. 893.135 in its entirety, s. 893.13, subject to minor modification, will provide alternative coverage for the enumerated crimes.

IV. AMENDMENTS:

None.

DATE: April 24, 1980

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R.W. Evans	P. Liepshutz	1. J.Crim.	
2. _____		2. _____	
3. _____		3. _____	

SUBJECT: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

BILL No. AND SPONSOR:  
SB 296 by Senator Carlucci

I. SUMMARY:

A. Present Situation:

Section 893.135, Florida Statutes, created the crimes of trafficking in marijuana, trafficking in cocaine, and trafficking in illegal drugs (morphine and opium). The section provides mandatory minimum penalties and additional fines for each of the crimes created. Provision is also made for reduction or suspension of sentence, upon appropriate motion by the state attorney, where the defendant has been convicted under the section and has given substantial assistance in the identification, arrest or conviction of any of his accomplices, co-conspirators, accessories or principals. The arresting agency is given the opportunity to be heard in aggravation or mitigation of any such motion. Upon good cause shown, the motion may be filed and heard in camera.

Methaqualone, commonly known as quaaludes, is currently classified as a Schedule II controlled substance by s. 893.03(2)(c). Section 893.13 prohibits the unauthorized manufacture, sale, delivery, possession or bringing into this state of any controlled substance. Violation of s. 893.13, with respect to any drug enumerated in s. 893.03(2)(c), including Methaqualone, is made a third degree felony by s. 893.13(1)(a)2. or s. 893.13(1)(d)2. In addition, the unauthorized delivery of Methaqualone by an adult to someone under the age of 18 years is made a second degree felony by s. 893.13(1)(c)2. Punishment for a second degree and third degree felony under s. 893.13 is provided in ss. 775.082, 775.083 or s. 775.084.

B. Effect of Proposed Changes:

This bill would create the crime of trafficking in Methaqualone. The sale, manufacture, delivery, possession or bringing into this state of 28 grams or more of Methaqualone would become a first degree felony under s. 893.135. The minimum mandatory penalties, increased fines, and special provisions for sentencing under the trafficking section would apply to large quantities of Methaqualone as it now does to marijuana, cocaine, opium and morphine.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public: Indeterminate.

B. Government: The fiscal impact of this bill is difficult to ascertain. The Department of Law Enforcement's data indicates that there were in excess of 29,000 arrests for drug-related offenses during FY 1977-78. However, statistics are not available on the number of convictions obtained from the drug arrests or the type of

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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: R.W. Evans  
Staff Director: P. Liepshutz  
Subject: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

Bill No. And Sponsor:  
SB 296 by Senator Carlucci

Further, we are not able to determine how much prison time a defendant serves under the present statute when compared to the minimums in the proposed legislation.

Finally, the number of defendants who will receive a reduced or suspended sentence in lieu of the mandatory sentences (after giving substantial assistance to the prosecution) is not possible to project. However, the impact for the next few years would appear to be minimal according to the best estimates of those agencies primarily affected.

III. COMMENTS:

Presumably, the trafficking statute was designed to place particular emphasis on the most prevalent of the abused drugs. The nature of the drug and its detrimental effect on the well-being of both the individual and society were apparently factors considered in the enumeration of particular drugs for special treatment under the trafficking statute. Methaqualone has the necessary detrimental effects and apparently shares similar propensities for abuse; thus, a strong argument can be made for its inclusion in the trafficking statute.

This bill, as drafted, may create a duplication of penalties unless s. 893.13 is amended to except those quantities of Methaqualone to be covered by the trafficking section. Such an exception was made for large quantities of marijuana when the existing trafficking statute was created. However, certain other drugs, covered by the trafficking statute, such as cocaine, were not excepted from s. 893.13, and thus, violations involving large quantities of these drugs may be prosecuted under either section. This duplication and any possible conflict could be eliminated by making the trafficking statute the exclusive provision for those drugs and quantities covered therein.

Several circuit courts in the 11th Judicial Circuit have recently held section 893.135 unconstitutional, largely because of the substantial assistance provision. However, the change proposed by this bill does not affect the issue before the court or go to the alleged defect forming the basis of the challenge. Although it is possible that the Supreme Court could hold the entire section unconstitutional, it is anticipated that the alleged infirmities will be susceptible to correction.

In addition, it is believed that if the Court strikes s. 893.135 in its entirety, s. 893.13, subject to minor modification, will provide alternative coverage for the enumerated crimes.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR SENATE BILL 296

The Committee Substitute creates the first degree felony of trafficking in phencyclidine. It shall be unlawful to knowingly sell, manufacture, deliver, bring into the state or be in possession of specified amounts of phencyclidine. Conviction for trafficking in phencyclidine shall be punishable by mandatory fines and mandatory minimum terms of imprisonment.

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Committee on JUDICIARY-CRIMINAL

M. Paul Singshat  
Chairman or Staff Director

DATE: June 10, 1980 (Updated)

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. R.W.Evans	P.Liepshutz	1. J.Crim.	Fav/CS
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

BILL NO. AND SPONSOR:  
CS/SB 296 by  
Judiciary-Criminal &  
Senator Carlucci

I. SUMMARY:

A. Present Situation:

Section 893.135, Florida Statutes, created the crimes of trafficking in marijuana, trafficking in cocaine, and trafficking in illegal drugs (morphine and opium). The section provides mandatory minimum penalties and additional fines for each of the crimes created. Provision is also made for reduction or suspension of sentence, upon appropriate motion by the state attorney, where the defendant has been convicted under the section and has given substantial assistance in the identification, arrest or conviction of any of his accomplices, co-conspirators, accessories or principals. The arresting agency is given the opportunity to be heard in aggravation or mitigation of any such motion. Upon good cause shown, the motion may be filed and heard in camera.

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## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: R.W.Evans  
Staff Director: P.Liepshutz  
Subject: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

Bill No. And Sponsor: CS/SB 296  
by Judiciary-Criminal and  
Senator Carlucci

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: R.W. Evans  
Staff Director: P. Liepshutz  
Subject: Providing minimum mandatory sentences for trafficking in large quantities of certain controlled substances

Bill No. And Sponsor:  
CS/SB 296 by Judiciary-  
Criminal and Senator  
Carlucci

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In addition, it is believed that if the Court strikes s. 893.135 in its entirety, s. 893.13, subject to minor modification, will provide alternative coverage for the enumerated crimes.

FINAL UPDATE: CS/HB 263, which passed the House 102-1, was substituted by the Senate for CS/SB 296 and passed 34-0. CS/HB 263 was signed by the Governor on June 6, 1980. Assigned Chapter Number, 80-70, Laws of Florida.

IV. AMENDMENTS:

None