

The Rap Sheet

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Against Law
Enforcement Officers
Subcommittee are listed
on the back page**

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There will be no
Police-Prosecutor Coordinating Committee
Meeting in August

The next scheduled meeting after the summer hiatus
will be on September 24, 2014 at 2:00 p.m.
and will include the annual Legislative Update

New Laws

Effective Date: June 16th 2014

Chapter 2014-159

This bill amends section 893.03 by adding the following hallucinogenic drugs to the list of Schedule I drugs: AB-PINACA, AB-FUBINACA, ADB-PINACA, Fluoro ADBICA, 25B-NBOMe, and 2COCONBOMe.

Section 893.135 is amended by the addition of 3, 4-Methylenedioxymethcathinone, 3, 4-Methylenedioxypyrovalerone (MDPV), and Methylemethcathinone to the drugs listed under 893.135(K)(1) &(3). In addition, analogs or isomers of all the drugs listed are now included.

Chapter 2014-157—The Compassionate Medical Cannabis Act of 2014

This bill creates section 381.986 which allows the compassionate use of low-THC cannabis, defined as cannabis containing 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weigh for weight, the seeds thereof, the resin extracted from any part of such plant, or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin, to be dispensed only from a dispensing organization. Beginning on January 1, 2015, physicians will be allowed to prescribe low-THC cannabis to treat patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. A violation of the statute by a physician is a first degree misdemeanor.

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IMPORTANT!

Next PPCC meeting, **Wednesday, September 24, 2014 at 2:00 p.m.**

State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136

All are invited to attend

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The section also allows patients who qualify under the statute to purchase and possess the low-THC cannabis and approved dispensing organizations to dispense low THC-cannabis, notwithstanding the provisions of sections 893.13, 893.135, 893.147 or other provisions of the law. It also amends section 893.02(3) by excluding low-THC cannabis from the definition of cannabis. A person who falsely represents that he has a medical condition that qualifies him under this statute to obtain low THC commits a first degree misdemeanor.

Effective Date: July 1, 2014

Chapter 2014-65

The prohibition related to tobacco products has now been extended to nicotine products and nicotine dispensing devices to persons under the age of 18. Newly enacted Section 877.112 prohibits the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18. A violation of this statute is a second degree misdemeanor. A subsequent violation within one year is a first degree misdemeanor. The bill also provides defenses based on the appearance of the underage person, whether the underage person falsely misrepresented his or her age, whether the seller carefully checked the identification presented and acted in good faith and in reliance on the representation made by the buyer.

Possession by a minor of any nicotine product or nicotine dispensing device or misrepresents his or her age is a noncriminal violation. A first violation results in the imposition of 16 hours of community service or a \$25 fine and attending an anti-tobacco program if locally available. A second violation within 12 weeks is a \$25 fine, and a third or subsequent violation with 12 weeks would prevent a minor from obtaining a driver license or the suspension of or revocation of the minor's driver license or driving privilege. Any second or subsequent violation not within the 12 week period is punishable as a first violation. The charging document for this violation is a civil citation that the minor must sign indicating a promise to appear before a county court or compliance with the appropriate requirements.

Chapter 2014-81

This bill contains several revisions of regulations related to money services. Section 560.111 provides that the failure to submit certain information relating to a check cashing transaction into the check cashing database or electronic log is a third degree felony.

Chapter 2014-95

This bill amends section 817.355 to prohibit a person from counterfeiting, forging, altering, cloning, or possessing a ticket, card, wristband, or other medium that accesses or is associated with a ticket; or a ticket, token, or paper designed for admission to or the rendering of services by a sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility. Violation of this statute is a misdemeanor of the first degree. A second or subsequent violation of the statute is a third degree felony. Possession of 10 or more counterfeit, forged, altered or cloned tickets with the intent to defraud a facility is a felony of the third degree.

Section 817.361 is amended to include the term "multiuse tickets" to define a ticket or medium or right to attend designed for admission to more than one theme park complex, or to more than one amusement location or other facility in a theme park complex, or for admission for more than 1 day or more than once in the same day to one or more such locations or facilities in a theme park complex. It prohibits the offer of sale, sale or transfer of a nontransferable multiuse ticket or a card, wristband, or other medium that accesses or is associated with any such nontransferable multiuse ticket after such ticket has been used at least once for admission. Violation of this section is now a first degree misdemeanor for the first offense, and a third degree felony for a second or subsequent violation.

Chapter 2014-107

Possession of a spiny lobster after the closed season or, while on the water, possession of spiny lobster tails that have been wrung or separated from the body is a second degree misdemeanor. Possession of 25 or more lobsters is a first degree misdemeanor. A second violation is a first degree misdemeanor. A third violation is also a first degree misdemeanor, but there is a mandatory minimum sentence of 6 months. A third violation within 1 year after the second violation is a third degree felony, with a 1 year mandatory minimum. A fourth violation is a third degree felony, with a one year mandatory minimum.

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Chapter 2014-162

This bill contains numerous revisions relating to juvenile justice. It creates section 985.702 which prohibit the neglect of juvenile offenders by specified employees and sets forth certain reporting requirements. An employee's neglect which does not cause great bodily harm, permanent disability or permanent disfigurement to a juvenile offender is a third degree felony. If that neglect causes great bodily harm, permanent disability or permanent disfigurement, it is a second degree felony.

An employee who witnesses the infliction of neglect must report it immediately and the knowing or willful failure to do so or prevent someone else from doing so is a first degree misdemeanor. The knowing or willful submission of an inaccurate, incomplete, or untruthful report is a first degree misdemeanor. Knowingly or willfully coercing or threatening another person with the intent to alter testimony or a written report regarding an incident of neglect is a third degree felony.

Chapter 2014-176

This bill amends section 893.135, by creating two new subsections. We now have the offense of "trafficking in hydrocodone." If the amount is 14 grams or more, but less than 28 grams, it is a 3 year mm, if it is 28 grams or more, but less than 50 grams, it is a 7 year mm, if it is 50 grams or more, but less than 200 grams, it is a 15 year mm, and if it is 200 grams or more, but less than 30 kilograms, it is a 25 year mm. Note that we no longer have a 3 year minimum mandatory for trafficking for 4 grams or more but less than 14 grams. The other new offense is "trafficking in oxycodone". If the amount is 7 grams or more, but less than 14 grams, it is a 3 year mm, if it is 14 grams or more, but less than 25 grams, it is a 7 year mm, if it is 25 grams or more, but less than 100 grams, it is a 15 year mm, and if it is 100 grams or more, but less than 30 kilograms, it is a 25 year mm. Note also that that we no longer have a 3 year minimum mandatory for trafficking in less than 7 grams.

Chapter 2014-225 -- The Aaron Cohen Life Protection Act

This bill amends section 316.027, by creating a three-tier prohibition, increasing the penalties associated with leaving the scene of a crash, redefining serious bodily injury and defining "vulnerable road user". A driver of a vehicle involved in a crash which results in injury to a person other than serious bodily injury is required to immediately stop the vehicle at the scene or as close thereto as possible. A violation of this section is a third degree felony. It is now a second degree felony if the crash involves serious bodily injury, defined as an injury to a person, including the driver, consisting of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ. A crash resulting in the death of a person is now a first degree felony, with a new 4 year minimum mandatory sentence. A departure of this sentence may be made under certain circumstances only if the driver was not driving under the influence at the time. A violation of any of these provisions requires a 3 year driver license revocation, and completion of a victim's impact panel session or approved driver improvement course relating to the rights of vulnerable road users, defined as a pedestrian, including persons working on a highway or persons providing emergency services, a person lawfully riding a bicycle, motorcycle..., a person riding an animal, a person operating lawfully on a public right of way, a crosswalk., a person operating an electric personal assistive mobility device or a wheelchair, etc.. For purposes of sentencing, a violation of this statute is ranked one level above the normal ranking if the victim is a vulnerable road user.

Recent Case Law

Compiled by Joe Robinson, Chief of the Felony Screening Unit

St. Hilaire v. State, 3rd DCA, 2014

During a traffic stop in 2010, the defendant was found in possession of several debit cards, one of which contained coding which did not match the front of the card. In a search incident to arrest, the defendant's cell phone was searched and was found to contain numerous names and Social Security numbers of other people.

The defendant challenged the search of his cell phone, and the Third District Court of Appeal ruled in his favor, following the Florida Supreme Court's ruling in *Smallwood v. State*, 113 So. 3d 724 (Fla. 2013), holding that a post-arrest search of a cell phone required a search warrant or some showing of an exigent circumstance that the contents could be destroyed remotely before a search warrant could be acquired.

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Additionally, as the State had not made a showing of probable cause that the phone contained evidence of a crime, the State could not claim the information would have been inevitably discovered upon securing a search warrant.

The case was remanded to the trial court for trial on charges related to the debit cards only.

State v. Crumbley, (2nd DCA, 2014)

Prior to filing charges, the Pasco County Sheriff's Department used search warrants to obtain patient medical records of an alleged illegal pain management clinic run by the defendant, a doctor. Letters were sent out to each patient, notifying them of the seizure and of the pendency of a hearing regarding the State's intent to examine these records.

After some legal wrangling, a judge (on her own motion) entered an order essentially sealing the patients' records from examination by the State until further order of the court, for the given reason that the affidavit for the search warrant failed to set out probable cause of criminal activity by any of the patients.

After throwing out the trial court's blanket sealing order, the case was remanded to the trial court to fashion a remedy that permits access to the information for the State's investigation but still protects the identity of the patients.

All opinions of the Third District Court of Appeal (3d DCA) and the Supreme Court are binding in our Circuit. All other DCA opinions are binding in this District only if there are no contrary opinions in the 3d DCA.

All PPCC Subcommittees, Chairs and members are listed below. Please contact any of the Co-Chairs or members if you have an issue to be addressed.

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