

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 133

NJSA:2C:35-3

(Date rape drugs -- prohibit manufacture)

BILL NO: A2467

SPONSOR(S):Holzapfel and Luongo

DATE INTRODUCED:September 28, 1998

COMMITTEE:

ASSEMBLY: Law and Public Safety

SENATE:Law and Public Safety

AMENDED DURING PASSAGE:Yes

DATES OF PASSAGE:

ASSEMBLY:December 17, 1998

SENATE:May 10, 1999

DATE OF APPROVAL:June 25, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: *YES*^{1st} Reprint

(Amendments during passage denoted by superscript numbers)

A2467

SPONSORS STATEMENT: *Yes* (Begins on page 2 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 133, *approved June 25, 1999*

Assembly, No. 2467 (*First Reprint*)

1 AN ACT concerning certain dangerous substances and amending
2 ¹N.J.S.2C:35-3 and¹ N.J.S.2C:35-4.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 ¹1. N.J.S.2C:35-3 is amended to read as follows:
8 2C:35-3. Leader of Narcotics Trafficking Network.

9 As used in this section:

10 "Financier" means a person who, with the intent to derive a profit,
11 provides money or credit or other thing of value in order to purchase
12 a controlled dangerous substance or an immediate precursor, or
13 otherwise to finance the operations of a drug trafficking network.

14 A person is a leader of a narcotics trafficking network if he
15 conspires with two or more other persons in a scheme or course of
16 conduct to unlawfully manufacture, distribute, dispense, bring into or
17 transport in this State methamphetamine, lysergic acid diethylamide,
18 phencyclidine, gamma hydroxybutyrate, flunitrazepam or any
19 controlled dangerous substance classified in Schedule I or II, or any
20 controlled substance analog thereof as a financier, or as an organizer,
21 supervisor or manager of at least one other person.

22 Leader of narcotics trafficking network is a crime of the first degree
23 and upon conviction thereof, except as may be provided by
24 N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of life
25 imprisonment during which the person must serve 25 years before
26 being eligible for parole. Notwithstanding the provisions of subsection
27 a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed
28 \$750,000.00 or five times the street value of the controlled dangerous
29 substance **[or]**, controlled substance analog, gamma hydroxybutyrate
30 or flunitrazepam involved, whichever is greater.

31 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
32 leader of narcotics trafficking network shall not merge with the
33 conviction for any offense which is the object of the conspiracy.
34 Nothing contained in this section shall prohibit the court from
35 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
36 section be construed in any way to preclude or limit the prosecution
37 or conviction of any person for conspiracy under N.J.S.2C:5-2, or any
38 prosecution or conviction under N.J.S.2C:35-4 (maintaining or
39 operating a CDS production facility), N.J.S.2C:35-5 (manufacturing,
40 distributing or dispensing), N.J.S.2C:35-6 (employing a juvenile in a

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted October 5, 1998.

1 drug distribution scheme), N.J.S.2C:35-9 (strict liability for drug
2 induced death), N.J.S.2C:41-2 (racketeering activities) or subsection
3 g. of N.J.S.2C:5-2 (leader of organized crime).

4 It shall not be necessary in any prosecution under this section for
5 the State to prove that any intended profit was actually realized. The
6 trier of fact may infer that a particular scheme or course of conduct
7 was undertaken for profit from all of the attendant circumstances,
8 including but not limited to the number of persons involved in the
9 scheme or course of conduct, the actor's net worth and his
10 expenditures in relation to his legitimate sources of income, the
11 amount or purity of the specified controlled dangerous substance [or],
12 controlled substance analog, gamma hydroxybutyrate or flunitrazepam
13 involved, or the amount of cash or currency involved.

14 It shall not be a defense to a prosecution under this section that
15 such controlled dangerous substance [or], controlled substance
16 analog, gamma hydroxybutyrate or flunitrazepam was brought into or
17 transported in this State solely for ultimate distribution or dispensing
18 in another jurisdiction; nor shall it be a defense that any profit was
19 intended to be made in another jurisdiction.

20 It shall not be a defense that the defendant was subject to the
21 supervision or management of another, nor that another person or
22 persons were also leaders of the narcotics trafficking network.¹
23 (cf: P.L.1997, c.343, s.1)

24

25 ¹[1.] 2.¹ N.J.S.2C:35-4 is amended to read as follows:

26 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
27 seq.), any person who knowingly maintains or operates any premises,
28 place or facility used for the manufacture of methamphetamine,
29 lysergic acid diethylamide, phencyclidine, gamma hydroxybutyrate,
30 flunitrazepam, marijuana in an amount greater than five pounds or ten
31 plants or any substance listed in Schedule I or II, or the analog of any
32 such substance, or any person who knowingly aids, promotes, finances
33 or otherwise participates in the maintenance or operations of such
34 premises, place or facility, is guilty of a crime of the first degree and
35 shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of
36 imprisonment which shall include the imposition of a minimum term
37 which shall be fixed at, or between, one-third and one-half of the
38 sentence imposed, during which the defendant shall be ineligible for
39 parole. Notwithstanding the provisions of subsection a. of
40 N.J.S.2C:43-3, the court may also impose a fine not to exceed
41 \$750,000.00 or five times the street value of all controlled dangerous
42 substances [or], controlled substance analogs, gamma
43 hydroxybutyrate or flunitrazepam at any time manufactured or stored
44 at such premises, place or facility, whichever is greater.

45 (cf: P.L.1997, c.186, s.2)

1 ¹[2.] 3.¹ This act shall take effect immediately.

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6 Prohibits the manufacture of certain "date rape drugs" by a leader of
7 a narcotics trafficking network and operation of a production facility
8 for these drugs.

ASSEMBLY, No. 2467

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED SEPTEMBER 28, 1998

Sponsored by:

Assemblyman JAMES W. HOLZAPFEL

District 10 (Monmouth and Ocean)

Assemblyman GERALD J. LUONGO

District 4 (Camden and Gloucester)

SYNOPSIS

Makes it a crime of the first degree to operate a production facility for certain "rape drugs."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/29/1998)

1 AN ACT concerning certain dangerous substances and amending
2 N.J.S.2C:35-4.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:35-4 is amended to read as follows:

8 2C:35-4. Except as authorized by P.L.1970, c.226 (C.24:21-1 et
9 seq.), any person who knowingly maintains or operates any premises,
10 place or facility used for the manufacture of methamphetamine,
11 lysergic acid diethylamide, phencyclidine, gamma hydroxybutyrate,
12 flunitrazepam, marijuana in an amount greater than five pounds or ten
13 plants or any substance listed in Schedule I or II, or the analog of any
14 such substance, or any person who knowingly aids, promotes, finances
15 or otherwise participates in the maintenance or operations of such
16 premises, place or facility, is guilty of a crime of the first degree and
17 shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of
18 imprisonment which shall include the imposition of a minimum term
19 which shall be fixed at, or between, one-third and one-half of the
20 sentence imposed, during which the defendant shall be ineligible for
21 parole. Notwithstanding the provisions of subsection a. of
22 N.J.S.2C:43-3, the court may also impose a fine not to exceed
23 \$750,000.00 or five times the street value of all controlled dangerous
24 substances **[or]**, controlled substance analogs , gamma
25 hydroxybutyrate or flunitrazepam at any time manufactured or stored
26 at such premises, place or facility, whichever is greater.

27 (cf: P.L.1997, c.186, s.2)

28

29 2. This act shall take effect immediately.

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31

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STATEMENT

33

34 Under current law, it is a crime of the first degree to operate a
35 premises or facility used for the production of certain controlled
36 dangerous substances. This bill would add two "rape drugs" to the list
37 of substances included in the statute. Under the bill, the operation of
38 a premises or facility for the production of gamma hydroxybutyrate or
39 flunitrazepam would also be a crime of the first degree.

40 The use of gamma hydroxybutyrate (GHB) and flunitrazepam
41 (known as "roofies") to facilitate sexual assault is a growing problem.
42 Because these drugs may be tasteless and odorless, they have been
43 slipped into victims' drinks so that the victims unknowingly ingest

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Matter underlined thus is new matter.

1 them. In addition to rendering the victims physically helpless, these
2 substances have been known to cause amnesia, making it difficult for
3 victims to identify their attackers.

4 The first degree crime of operation of a production facility is
5 punishable by a term of imprisonment of up to ten to 20 years, with a
6 mandatory minimum term of one-third to one-half of the sentence
7 imposed. In addition, the court may also impose a fine not to exceed
8 \$750,000.00 or five times the street value of the unlawful substance.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2467

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1998

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2467.

Assembly Bill No. 2467 expands the list of substances for which it is illegal to maintain or operate a premises, place or facility used for the manufacture thereof to also include gamma hydroxybutyrate (GHB) and flunitrazepam, substances sometimes referred to as "date rape drugs" or "roofies." Under current law, it is a crime of the first degree to operate a premises or facility used for the production of methamphetamine, lysergic acid diethylamide, phencyclidine, marijuana in quantities greater than five pounds or ten plants, or controlled dangerous substances listed on Schedule I or II of the New Jersey Controlled Dangerous Substances Act or the analog of any of these substances. This crime is punishable by a term of imprisonment of ten to 20 years, with a mandatory minimum term of one-third to one-half of the sentence to be imposed. In addition, the court also may impose a fine not to exceed \$750,000 or five times the street value of the unlawful substance, whichever is greater.

The use of date rape drugs to facilitate sexual assault is a growing problem. Because they are usually tasteless and odorless, the drugs can be slipped into a victim's drink without the victim's knowledge. In addition to rendering the victim physically helpless, the drugs also may cause amnesia, which makes it difficult for the victim to identify an attacker.

As amended by the committee, the bill also provides that a person who conspires with two or more other persons in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State gamma hydroxybutyrate (GHB) or flunitrazepam as a financier, or as an organizer, supervisor or manager of at least one other person, is a leader of a narcotics trafficking network. This is a crime of the first degree punishable by a term of imprisonment of ten to 20 years, with a mandatory minimum term of 25 years to be served before eligibility for parole. In addition, the court also may impose a fine not to exceed \$750,000 or five times the street value of the unlawful substance, whichever is greater.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2467

STATE OF NEW JERSEY

DATED: MARCH 15, 1999

The Senate Law and Public Safety Committee reports favorably Assembly Bill No. 2467 (1R).

This bill expands the list of substances for which it is illegal to maintain or operate a premises, place or facility used for the manufacture thereof to also include gamma hydroxybutyrate (GHB) and flunitrazepam, substances sometimes referred to as "date rape drugs" or "roofies." Under current law, it is a crime of the first degree to operate a premises or facility used for the production of methamphetamine, lysergic acid diethylamide, phencyclidine, marijuana in quantities greater than five pounds or ten plants, or controlled dangerous substances listed on Schedule I or II of the New Jersey Controlled Dangerous Substances Act or the analog of any of these substances. This crime is punishable by a term of imprisonment of ten to 20 years, with a mandatory minimum term of one-third to one-half of the sentence to be imposed. In addition, the court also may impose a fine not to exceed \$750,000 or five times the street value of the unlawful substance, whichever is greater.

The bill also provides that a person who conspires with two or more other persons in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State gamma hydroxybutyrate (GHB) or flunitrazepam as a financier, or as an organizer, supervisor or manager of at least one other person, is a leader of a narcotics trafficking network. This is a crime of the first degree with a mandatory minimum term of 25 years to be served before eligibility for parole. In addition, the court also may impose a fine not to exceed \$750,000 or five times the street value of the unlawful substance, whichever is greater.

The use of date rape drugs to facilitate sexual assault is a growing problem. Because they are usually tasteless and odorless, the drugs can be slipped into a victim's drink without the victim's knowledge. In addition to rendering the victim physically helpless, the drugs also may cause amnesia, which makes it difficult for the victim to identify an attacker.

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
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RELEASE: June 25, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

A-2467, sponsored by Assembly Members James W. Holzapfel (R- Monmouth/Ocean) and Gerald J. Luongo (R-Camden/Gloucester), prohibits the manufacture of certain drugs -- often referred to as date rape drugs -- by a leader of a narcotics trafficking network and operation of a production facility for these drugs. Although the Governor recently signed a law criminalizing the sale of the drugs, gamma hydroxybutyrate and flunitrazepam, the law did not include a prohibition on the manufacture of these two drugs. The legislation seeks to correct that oversight and includes these two drugs among the substances to which the offenses of maintaining a drug manufacturing facility and being the leader of a narcotics trafficking network apply. The drugs are used to incapacitate victims and are often referred to as date rape drugs.

A-1300, sponsored by Assembly Members Marion Crecco (R- Essex/Passaic) and Rose Marie Heck (R-Bergen) and Senator Diane B. Allen (R-Burlington/Camden), provides additional civil and criminal penalties for deceptive consumer practices. The bill attempts to protect seniors and persons with disabilities from deceptive consumer practices as follows: (1) a penalty of not more than \$10,000 if the violation caused the victim of the violation pecuniary injury and the person knew or should have known that the victim was a senior citizen or a person with a disability; or (2) a penalty of not more than \$30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements. Any penalties assessed will be dedicated to consumer education for seniors and the disabled.

S-442, sponsored by Senator C. Louis Bassano (R-Essex/Union) and Assembly Members Paul DiGaetano (Bergen/Essex/Passaic) and John V. Kelly (R-Bergen/Essex/Passaic), requires each board of education which operates a health education program for students in grades seven through 12 to offer instruction in breast self-examination. The bill specifies that the instruction shall take place as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education, and further stipulates that the comprehensive health and physical education curriculum framework shall provide school districts with sample activities that may be used to support implementation of the instructional requirement.

A-2299, sponsored by Assembly Members Nicholas Asselta (R- Cape/May/Atlantic/ Cumberland) and John C. Gibson (R-Cape May/Atlantic/Cumberland) and Senators Anthony R. Bucco (R-Morris) and John A. Girgenti (D-Passaic), permits government retirees to repay pension loans through deductions from their retirement allowances. Under previous law, pension loans taken out by an active member of the various government employee pension systems were required to be repaid upon retirement before pension payments were made.

A-1854, sponsored by Assembly Members Richard H. Bagger (R- Middlesex/Morris /Somerset/ Union) and Leonard Lance (R- Warren/Hunterdon/Mercer) and Senators Robert E. Littell (R- Sussex/Hunterdon/Morris) and Joseph M. Kyriillos, Jr. (R-Middlesex/Monmouth), appropriates \$4.5 million to fund the creation of two new grants programs by the New Jersey Historical Commission in the Department of State. Funded with \$4 million, the first program will award grants and matching grants as general operating support to public and private history museums, historical societies, historic sites, historical agencies of county or local governments or any related agency or organization. The bill establishes a second grants program with the remaining \$500,000 appropriation to support research and publication projects on New Jersey history.

A-1639, sponsored by Assembly Members John C. Gibson (R- Atlantic/Cape May/Cumberland) and Nicholas Asselta (R- Atlantic/Cape May/Cumberland) and Senators James E. Cafiero (R- Atlantic/Cape May/Cumberland) and Robert W. Singer (R- Burlington/Monmouth/Ocean), makes permanent the premium reduction rate for completion of defensive driving courses. The law providing for a mandatory reduction in automobile insurance rates for drivers that successfully completed an approved motor vehicle defensive driving course had been scheduled to sunset on Jan. 1, 2000.

S-316, sponsored by Senators Robert W. Singer (R- Burlington/Monmouth/Ocean) and Louis F. Kosko (R-Bergen) and Assembly Members Melvin Cottrell (R-Burlington. Monmouth/Ocean), Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean) and Jack Connors (D-Burlington /Camden), allows holders of the Silver Star special license plate to affix a Silver Star insignia to their license plates. The Silver Star is a medal awarded by the armed forces for gallantry in action. The insignia affixed to the Silver Star special license plate highlights the achievement on holders' license plates. The bill authorizes the Director of the Division of Motor Vehicles to issue regulations governing the insignia.

AJR-51, sponsored by Assembly Member LeRoy J. Jones, Jr. (D-Essex) and Senators John O. Bennett (R-Monmouth) and John J. Matheussen (R-Camden/Gloucester), recognizes the "Code Adam" program and commends and encourages adoption of such programs by retail and business establishments. Code Adam is a program developed and utilized by Wal-Mart stores and SAM's Clubs throughout the nation, as well as Shop-Rite stores in New Jersey and New York, to prevent child abductions. Specifically, the Code Adam alarm signals a missing child and alerts all sales personnel to begin a coordinated and pre-arranged search effort to ensure that the child is not removed from the store.

AJR-61, sponsored by Assembly Members Barbara Wright (R- Mercer/Middlesex) and Paul Kramer (R-Mercer/Middlesex) and Senator Peter A. Inverso (R-Mercer/Middlesex), designates certain roads as the Washington Victory Trail. The bill provides that the routes traversed by General George Washington and 2,400 soldiers of the Continental Army during their historic nine-mile march from their landing site in New Jersey to Trenton in 1776 shall be designated as the Washington Victory Trail. In addition, the resolution directs the Commissioner of the Department of Transportation, in consultation with the New Jersey Historical Commission, to identify and designate these routes of march with appropriate signs.