

§§3,5 C. 2C:35-5.2
and 2C:35-5.3
§§4,6 C. 2C:35-10.2
and 2C:35-10.3
§7 C. 52:17B-4.5

P.L. 1997, CHAPTER 194, *approved August 8, 1997*
Assembly Committee Substitute for
Assembly, No. 2725

1 **AN ACT** concerning certain dangerous substances and certain sexual
2 assaults and amending and supplementing various sections of the
3 statutory law.

4

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

7

8 1. N.J.S.2C:14-2 is amended to read as follows:

9 2C:14-2. Sexual assault. a. An actor is guilty of aggravated
10 sexual assault if he commits an act of sexual penetration with another
11 person under any one of the following circumstances:

12 (1) The victim is less than 13 years old;

13 (2) The victim is at least 13 but less than 16 years old; and

14 (a) The actor is related to the victim by blood or affinity to the
15 third degree, or

16 (b) The actor has supervisory or disciplinary power over the
17 victim by virtue of the actor's legal, professional, or occupational
18 status, or

19 (c) The actor is a foster parent, a guardian, or stands in loco
20 parentis within the household;

21 (3) The act is committed during the commission, or attempted
22 commission, whether alone or with one or more other persons, of
23 robbery, kidnapping, homicide, aggravated assault on another,
24 burglary, arson or criminal escape;

25 (4) The actor is armed with a weapon or any object fashioned in
26 such a manner as to lead the victim to reasonably believe it to be a
27 weapon and threatens by word or gesture to use the weapon or object;

28 (5) The actor is aided or abetted by one or more other persons
29 and [either of the following circumstances exists:

30 (a) The] the actor uses physical force or coercion[, or

31 (b) The victim is one whom the actor knew or should have known
32 was physically helpless, mentally defective or mentally incapacitated];

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.

1 (6) The actor uses physical force or coercion and severe personal
2 injury is sustained by the victim;

3 (7) The victim is one whom the actor knew or should have known
4 was physically helpless, mentally defective or mentally incapacitated.

5 Aggravated sexual assault is a crime of the first degree.

6 b. An actor is guilty of sexual assault if he commits an act of
7 sexual contact with a victim who is less than 13 years old and the actor
8 is at least four years older than the victim.

9 c. An actor is guilty of sexual assault if he commits an act of
10 sexual penetration with another person under any one of the following
11 circumstances:

12 (1) The actor uses physical force or coercion, but the victim does
13 not sustain severe personal injury;

14 [(2) The victim is one whom the actor knew or should have
15 known was physically helpless, mentally defective or mentally
16 incapacitated;

17 (3)](2) The victim is on probation or parole, or is detained in a
18 hospital, prison or other institution and the actor has supervisory or
19 disciplinary power over the victim by virtue of the actor's legal,
20 professional or occupational status;

21 [(4)](3) The victim is at least 16 but less than 18 years old and:

22 (a) The actor is related to the victim by blood or affinity to the
23 third degree; or

24 (b) The actor has supervisory or disciplinary power over the
25 victim; or

26 (c) The actor is a foster parent, a guardian, or stands in loco
27 parentis within the household;

28 [(5)](4) The victim is at least 13 but less than 16 years old and the
29 actor is at least four years older than the victim.

30 Sexual assault is a crime of the second degree.

31 (cf: P.L.1989, c.228 ,s.3)

32
33 2. N.J.S.2C:14-3 is amended to read as follows:

34 a. An actor is guilty of aggravated criminal sexual contact if he
35 commits an act of sexual contact with the victim under any of the
36 circumstances set forth in 2C:14-2a. (2) through [(6)](7).

37 Aggravated criminal sexual contact is a crime of the third degree.

38 b. An actor is guilty of criminal sexual contact if he commits an
39 act of sexual contact with the victim under any of the circumstances
40 set forth in section 2C:14-2c. (1) through [(5)](4).

41 Criminal sexual contact is a crime of the fourth degree.

42 (cf: P.L.1979, c.178, s.27)

43
44 3. (New section) a. Except as authorized by P.L.1970, c.226
45 (C.24:21-1 et seq.), it shall be a crime of the second degree for any

1 person knowingly or purposely to manufacture, distribute or dispense,
2 or to possess or have under his control with intent to manufacture,
3 distribute or dispense gamma hydroxybutyrate.

4 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other
5 law, a fine of up to \$150,000.00 may be imposed upon a person who
6 violates this section.

7

8 4. (New section) a. It is a crime of the third degree for any
9 person, knowingly or purposely, to obtain, or to possess, gamma
10 hydroxybutyrate unless the substance was obtained directly, or
11 pursuant to a valid prescription or order form from a practitioner,
12 while acting in the course of his professional practice, or except as
13 otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

14 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other
15 law, a fine of up to \$100,000.00 may be imposed upon a person who
16 violates this section.

17

18 5. (New section) a. Except as authorized by P.L.1970, c.226
19 (C.24:21-1 et seq.), it is unlawful for any person knowingly or
20 purposely to manufacture, distribute or dispense, or to possess or have
21 under his control with intent to manufacture, distribute or dispense
22 flunitrazepam.

23 b. A person who violates subsection a. of this section with respect
24 to flunitrazepam in a quantity of one gram or more is guilty of a crime
25 of the first degree and, notwithstanding the provisions of N.J.S.2C:43-
26 3 or any other law, a fine of up to \$250,000.00 may be imposed upon
27 the person.

28 c. A person who violates subsection a. of this section with
29 respect to flunitrazepam in a quantity of less than one gram is guilty
30 of a crime of the second degree and, notwithstanding the provisions of
31 N.J.S.2C:43-3 or any other law, a fine of up to \$150,000.00 may be
32 imposed upon the person.

33

34 6. (New section) a. It is a crime of the third degree for any
35 person, knowingly or purposely, to obtain, or to possess,
36 flunitrazepam, unless the substance was obtained directly, or pursuant
37 to a valid prescription or order form from a practitioner, while acting
38 in the course of his professional practice, or except as otherwise
39 authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

40 b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other
41 law, a fine of up to \$100,000.00 may be imposed upon a person who
42 violates this section.

43

44 7. (New section) a. The Department of Law and Public Safety
45 shall establish and maintain a suitable training program for law

1 enforcement officers regarding the use of narcotics, anesthetics,
2 intoxicants, and other substances which could be used to facilitate
3 sexual assault.

4 b. The Department shall adopt, pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
6 regulations necessary to implement this act.

7

8 8. This act shall take effect immediately.

9

10

11

12

13 _____
14 Increases penalties for sexual assault committed with the use of certain
substances; criminalizes sale and possession of "rape drugs."