

BILL HISTORY FOR ASSEMBLY BILL 185 (LRB-2059)

An Act to renumber 961.20 (2) (ej); and to amend 961.492 (1) of the statutes; relating to: the controlled substance flunitrazepam.

1999

03-08. A. Introduced by Representatives **Huebsch, Kestell, Hasenohrl, Plale, Suder, Freese, Rhoades, Albers, Spillner, Ladwig, Brandemuehl, Seratti, F. Lasee, Sykora, Goetsch, M. Lehman, Vrakas, Montgomery, Lassa, Gunderson, Petrowski, Owens, Pettis and Townsend**; cosponsored by Senators **Moen, Fitzgerald, Huelsman, Lazich, Roessler and Darling**.

03-08. A. Read first time and referred to committee on Judiciary and Personal Privacy 102

03-16. A. Public hearing held.

03-30. A. Public hearing held.

05-11. A. Executive action taken.

05-11. A. Assembly substitute amendment 1 offered by committee on Judiciary and Personal Privacy (**LRB s0061**) 178

05-17. A. Report Assembly substitute amendment 1 adoption recommended by committee on Judiciary and Personal Privacy, Ayes 9, Noes 0 191

05-17. A. Report passage as amended recommended by committee on Judiciary and Personal Privacy, Ayes 9, Noes 0 191

05-17. A. Referred to committee on Rules 191

09-23. A. Placed on calendar 9-29-1999 by committee on Rules.

09-29. A. Read a second time 355

09-29. A. Assembly substitute amendment 1 **adopted** 355

09-29. A. Ordered to a third reading 355

09-29. A. Rules suspended 355

09-29. A. Read a third time and **passed** 355

09-29. A. Ordered immediately messaged 355

09-30. S. Received from Assembly 277

09-30. S. Read first time and referred to committee on Judiciary and Consumer Affairs 277

2000

03-27. S. Public hearing held.

03-28. S. Executive action taken.

03-29. S. Report introduction and adoption of Senate substitute amendment 1 recommended by committee on Judiciary and Consumer Affairs, Ayes 5, Noes 0 (**LRB s0497**) 549

03-29. S. Report concurrence as amended recommended by committee on Judiciary and Consumer Affairs, Ayes 5, Noes 0 549

03-29. S. Available for scheduling.

03-29. S. Read a second time 558

03-29. S. Senate substitute amendment 1 **adopted** 558

03-29. S. Ordered to a third reading 558

03-29. S. Rules suspended 558

03-29. S. Read a third time and **concurred in** as amended 558

03-29. S. Ordered immediately messaged 561

03-30. A. Received from Senate amended and concurred in as amended (Senate substitute amendment 1 adopted).

03-30. A. Senate substitute amendment 1 **concurred in**.

03-30. A. Action ordered immediately messaged.

**1999
ENROLLED BILL**

99en AB-185

ADOPTED DOCUMENTS:

Orig Engr 5 SubAmdt 1 99 50497 /

Amendments to above (if none, write "NONE"): None

Corrections - show date (if none, write "NONE"): None

Topic The controlled substance flunitrazepam

4/4/00 [Signature]
Date Enrolling Drafter

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 185**

March 29, 2000 - Offered by COMMITTEE ON JUDICIARY AND CONSUMER AFFAIRS.

1 **AN ACT to amend** 139.87 (2), 139.89, 139.95 (1), 938.34 (14t), 940.02 (2) (a)
2 (intro.), 940.02 (2) (a) 3., 940.02 (2) (b), 961.46 (3), 961.49 (2) (a) (intro.), 961.492
3 (1) and 961.495; **to repeal and recreate** 139.95 (2), 139.95 (3), 961.41 (1) (i),
4 961.41 (1m) (i) and 961.41 (2) (c); and **to create** 139.88 (3), 961.41 (1) (im),
5 961.41 (1m) (im), 961.41 (2) (cm) and 961.55 (6m) of the statutes; **relating to:**
6 the controlled substances ketamine and flunitrazepam and providing
7 penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 139.87 (2) of the statutes is amended to read:
9 139.87 (2) "Dealer" means a person who in violation of ch. 961 possesses,
10 manufactures, produces, ships, transports, delivers, distributes, imports, sells or
11 transfers to another person more than 42.5 grams of material containing

1 tetrahydrocannabinols, more than 5 plants containing tetrahydrocannabinols, more
2 than 14 grams of mushrooms containing psilocin or psilocybin, more than 100
3 milligrams of any material containing lysergic acid diethylamide ~~or~~, more than 7
4 grams of any other schedule I or schedule II controlled substance or of a controlled
5 substance analog of a schedule I or schedule II controlled substance or more than 7
6 grams of ketamine or flunitrazepam. “Dealer” does not include a person who lawfully
7 possesses a controlled substance or controlled substance analog.

8 **SECTION 2.** 139.88 (3) of the statutes is created to read:

9 139.88 (3) Per gram or part of a gram of ketamine or flunitrazepam, whether
10 pure or impure, measured when in the dealer’s possession, \$200.

11 **SECTION 3.** 139.89 of the statutes is amended to read:

12 **139.89 Proof of payment.** The department shall create a uniform system of
13 providing, affixing and displaying stamps, labels or other evidence that the tax under
14 s. 139.88 has been paid. Stamps or other evidence of payment shall be sold at face
15 value. No dealer may possess any schedule I controlled substance ~~or~~, schedule II
16 controlled substance or ketamine or flunitrazepam unless the tax under s. 139.88 has
17 been paid on it, as evidenced by a stamp or other official evidence issued by the
18 department. The tax under this subchapter is due and payable immediately upon
19 acquisition or possessing of the schedule I controlled substance ~~or~~, schedule II
20 controlled substance or ketamine or flunitrazepam in this state, and the department
21 at that time has a lien on all of the taxpayer’s property. Late payments are subject
22 to interest at the rate of 1% per month or part of a month. No person may transfer
23 to another person a stamp or other evidence of payment.

24 **SECTION 4.** 139.95 (1) of the statutes is amended to read:

1 139.95 (1) Any dealer who possesses a schedule I controlled substance ~~or, a~~
2 schedule II controlled substance or ketamine or flunitrazepam that does not bear
3 evidence that the tax under s. 139.88 has been paid shall pay, in addition to the tax
4 under s. 139.88, a penalty equal to the tax due. The department shall collect
5 penalties under this subchapter in the same manner as it collects the tax under this
6 subchapter.

7 **SECTION 5.** 139.95 (2) of the statutes, as affected by 1997 Wisconsin Act 283,
8 is repealed and recreated to read:

9 139.95 (2) A dealer who possesses a schedule I controlled substance, a schedule
10 II controlled substance or ketamine or flunitrazepam that does not bear evidence
11 that the tax under s. 139.88 has been paid may be fined not more than \$10,000 or
12 imprisoned for not more than 7 years and 6 months or both.

13 **SECTION 6.** 139.95 (3) of the statutes, as affected by 1997 Wisconsin Act 283,
14 is repealed and recreated to read:

15 139.95 (3) Any person who falsely or fraudulently makes, alters or counterfeits
16 any stamp or procures or causes the same to be done or who knowingly utters,
17 publishes, passes or tenders as true any false, altered or counterfeit stamp or who
18 affixes a counterfeit stamp to a schedule I controlled substance, a schedule II
19 controlled substance or ketamine or flunitrazepam or who possesses a schedule I
20 controlled substance, a schedule II controlled substance or ketamine or
21 flunitrazepam to which a false, altered or counterfeit stamp is affixed may be fined
22 not more than \$10,000 or imprisoned for not less than one year nor more than 15
23 years or both.

24 **SECTION 7.** 938.34 (14t) of the statutes is amended to read:

1 **938.34 (14t)** POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE
2 ANALOG ON OR NEAR CERTAIN PREMISES. If the juvenile is adjudicated delinquent under
3 a violation of s. 961.41 (3g) by possessing or attempting to possess a controlled
4 substance included in schedule I or II under ch. 961 ~~or~~, a controlled substance analog
5 of a controlled substance included in schedule I or II under ch. 961 or ketamine or
6 flunitrazepam while in or on the premises of a scattered-site public housing project,
7 as defined in s. 961.01 (20i), while in or on or otherwise within 1,000 feet of a state,
8 county, city, village or town park, a jail or correctional facility, as defined in s. 961.01
9 (12m), a multiunit public housing project, as defined in s. 961.01 (14m), a swimming
10 pool open to members of the public, a youth center, as defined in s. 961.01 (22), or a
11 community center, while in or on or otherwise within 1,000 feet of any private or
12 public school premises or while in or on or otherwise within 1,000 feet of a school bus,
13 as defined in s. 340.01 (56), the court shall require that the juvenile participate for
14 100 hours in a supervised work program or other community service work under sub.
15 (5g).

16 **SECTION 8.** 940.02 (2) (a) (intro.) of the statutes is amended to read:

17 940.02 (2) (a) (intro.) By manufacture, distribution or delivery, in violation of
18 s. 961.41, of a controlled substance included in schedule I or II under ch. 961 ~~or~~, of
19 a controlled substance analog of a controlled substance included in schedule I or II
20 under ch. 961 or of ketamine or flunitrazepam, if another human being uses the
21 controlled substance or controlled substance analog and dies as a result of that use.

22 This paragraph applies:

23 **SECTION 9.** 940.02 (2) (a) 3. of the statutes is amended to read:

24 940.02 (2) (a) 3. To any distribution or delivery described in this paragraph,
25 regardless of whether the distribution or delivery is made directly to the human

1 being who dies. If possession of the controlled substance included in schedule I or
2 II under ch. 961 ~~or~~, of the controlled substance analog of the controlled substance
3 included in schedule I or II under ch. 961 or of the ketamine or flunitrazepam is
4 transferred more than once prior to the death as described in this paragraph, each
5 person who distributes or delivers the controlled substance or controlled substance
6 analog in violation of s. 961.41 is guilty under this paragraph.

7 **SECTION 10.** 940.02 (2) (b) of the statutes is amended to read:

8 940.02 (2) (b) By administering or assisting in administering a controlled
9 substance included in schedule I or II under ch. 961 ~~or~~, a controlled substance analog
10 of a controlled substance included in schedule I or II of ch. 961 or ketamine or
11 flunitrazepam, without lawful authority to do so, to another human being and that
12 human being dies as a result of the use of the substance. This paragraph applies
13 whether the human being dies as a result of using the controlled substance or
14 controlled substance analog by itself or with any compound, mixture, diluent or other
15 substance mixed or combined with the controlled substance or controlled substance
16 analog.

17 **SECTION 11.** 961.41 (1) (i) of the statutes, as affected by 1997 Wisconsin Act 283,
18 is repealed and recreated to read:

19 961.41 (1) (i) Except as provided in par. (im), a substance included in schedule
20 IV, may be fined not more than \$10,000 or imprisoned for not more than 4 years and
21 6 months or both.

22 **SECTION 12.** 961.41 (1) (im) of the statutes is created to read:

23 961.41 (1) (im) Flunitrazepam, may be fined not more than \$15,000 or
24 imprisoned for not more than 7 years and 6 months or both.

1 **SECTION 13.** 961.41 (1m) (i) of the statutes, as affected by 1997 Wisconsin Act
2 283, is repealed and recreated to read:

3 961.41 (1m) (i) Except as provided in par. (im), a substance included in
4 schedule IV, may be fined not more than \$10,000 or imprisoned for not more than 4
5 years and 6 months or both.

6 **SECTION 14.** 961.41 (1m) (im) of the statutes is created to read:

7 961.41 (1m) (im) Flunitrazepam, may be fined not more than \$15,000 or
8 imprisoned for not more than 7 years and 6 months or both.

9 **SECTION 15.** 961.41 (2) (c) of the statutes, as affected by 1997 Wisconsin Act 283,
10 is repealed and recreated to read:

11 961.41 (2) (c) Except as provided in par. (cm), a counterfeit substance included
12 in schedule IV, may be fined not more than \$10,000 or imprisoned for not more than
13 4 years and 6 months or both.

14 **SECTION 16.** 961.41 (2) (cm) of the statutes is created to read:

15 961.41 (2) (cm) A counterfeit substance which is flunitrazepam, may be fined
16 not more than \$15,000 or imprisoned for not more than 7 years and 6 months or both.

17 **SECTION 17.** 961.46 (3) of the statutes, as affected by 1999 Wisconsin Act ...
18 (Assembly Bill 318), is amended to read:

19 961.46 (3) If any person 17 years of age or over violates s. 961.41 (1) (cm), (d),
20 (e), (em), (f), (g) or, (h) or (im) by distributing or delivering cocaine, cocaine base,
21 heroin, phencyclidine, lysergic acid diethylamide, psilocin, psilocybin,
22 amphetamine, methamphetamine, methcathinone, flunitrazepam or any form of
23 tetrahydrocannabinols or a controlled substance analog of any of these substances
24 to a person 17 years of age or under who is at least 3 years his or her junior, any

1 applicable minimum and maximum fines and minimum and maximum periods of
2 imprisonment under s. 961.41 (1) (cm), (d), (e), (em), (f), (g) ~~or~~ (h) or (im) are doubled.

3 **SECTION 18.** 961.49 (2) (a) (intro.) of the statutes, as affected by 1999 Wisconsin
4 Act (Senate Bill 146), is amended to read:

5 961.49 (2) (a) (intro.) Except as provided in par. (b), the court shall sentence a
6 person as provided in par. (am) if the person violates s. 961.41 (1) by delivering or
7 distributing, or violates s. 961.41 (1m) by possessing with intent to deliver or
8 distribute, a controlled substance included in schedule I or II ~~or~~ a controlled
9 substance analog of a controlled substance included in schedule I or II or ketamine
10 or flunitrazepam under any of the following circumstances:

11 **SECTION 19.** 961.492 (1) of the statutes is amended to read:

12 961.492 (1) The violation of s. 961.41 (1) or (1m) involves the distribution or
13 delivery or the possession, with intent to distribute or deliver, of any controlled
14 substance included in schedule I or II ~~or~~ of a controlled substance analog of any
15 controlled substance included in schedule I or II or of ketamine or flunitrazepam.

16 **SECTION 20.** 961.495 of the statutes is amended to read:

17 **961.495 Possession or attempted possession of a controlled substance**
18 **on or near certain places.** If any person violates s. 961.41 (3g) by possessing or
19 attempting to possess a controlled substance included in schedule I or II ~~or~~ a
20 controlled substance analog of a controlled substance included in schedule I or II or
21 ketamine or flunitrazepam while in or on the premises of a scattered-site public
22 housing project, while in or on or otherwise within 1,000 feet of a state, county, city,
23 village or town park, a jail or correctional facility, a multiunit public housing project,
24 a swimming pool open to members of the public, a youth center or a community
25 center, while in or on or otherwise within 1,000 feet of any private or public school

1 premises or while in or on or otherwise within 1,000 feet of a school bus, as defined
2 in s. 340.01 (56), the court shall, in addition to any other penalties that may apply
3 to the crime, impose 100 hours of community service work for a public agency or a
4 nonprofit charitable organization. The court shall ensure that the defendant is
5 provided a written statement of the terms of the community service order and that
6 the community service order is monitored. Any organization or agency acting in good
7 faith to which a defendant is assigned pursuant to an order under this section has
8 immunity from any civil liability in excess of \$25,000 for acts or omissions by or
9 impacting on the defendant.

10 **SECTION 21.** 961.55 (6m) of the statutes is created to read:

11 961.55 (6m) Flunitrazepam or ketamine that is possessed, transferred, sold,
12 offered for sale or attempted to be possessed in violation of this chapter is contraband
13 and shall be seized and summarily forfeited to the state. Flunitrazepam or ketamine
14 that is seized or comes into the possession of the state, the owner of which is
15 unknown, is contraband and shall be summarily forfeited to the state.

16 **SECTION 22. Initial applicability.**

17 (1) This act first applies to acts in violation of chapter 961 of the statutes that
18 occur on the effective date of this subsection.

19 (END)