

# REPRINTED

MAR 5 1997

Place On Calendar

HOUSE FILE 449  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 52)

Passed House, Date 3-25-97 (p. 778) Passed Senate, Date 4/16/97 (P. 1204)  
Vote: Ayes 99 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 23, 1997

## A BILL FOR

1 An Act to prohibit sex acts when one participant was prevented  
2 from resisting by flunitrazepam, by expanding the substances  
3 within schedule I controlled substances to include  
4 flunitrazepam, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 449

1 Section 1. Section 124.204, subsection 5, Code 1997, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. Flunitrazepam.

4 Sec. 2. Section 124.210, subsection 3, paragraph t, Code  
5 1997, is amended by striking the paragraph.

6 Sec. 3. Section 709.4, Code 1997, is amended by adding the  
7 following new subsection:

8 NEW SUBSECTION. 3. The act is performed while the other  
9 participant is under the influence of flunitrazepam and both  
10 of the following are true:

11 a. Flunitrazepam prevents the other participant from  
12 resisting the act.

13 b. The person performing the act knows or reasonably  
14 should have known that the other participant was under the  
15 influence of flunitrazepam.

16 EXPLANATION

17 This bill prohibits, as sexual abuse in the third degree, a  
18 sex act in which the other participant is under the influence  
19 of flunitrazepam which prevents the other participant from  
20 resisting the sex act and the person committing the sex act  
21 knows or reasonably should have known that the other  
22 participant was under the influence of flunitrazepam. Sexual  
23 abuse in the third degree is a class "C" felony, punishable by  
24 confinement in prison for no more than 10 years and a fine of  
25 at least \$500, but no more than \$10,000. The bill moves  
26 flunitrazepam from its current schedule IV controlled  
27 substance classification to schedule I. Schedule IV drugs may  
28 be distributed or dispensed to members of the public through a  
29 prescription. Schedule I substances are those substances  
30 which are deemed to have no accepted medical use in treatment  
31 or lack in accepted safety for use in treatment under medical  
32 supervision.

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**HOUSE FILE 449  
FISCAL NOTE**

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The estimate for House File 449 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 449 defines a sex act in which the other person is under the influence of flunitrazepam as sexual abuse in the third degree, a Class C felony, when the person committing the sex act knows or should have known the other participant was under the influence of the drug. The Bill redefines flunitrazepam as a Schedule I substance.

**ASSUMPTIONS**

Current law prohibits a sex act when the other participant is unconscious or in a drug-induced sleep. Current law can be applied to the use of flunitrazepam. These offenses would be prosecuted as third degree sexual abuse.

**CORRECTIONAL IMPACT**

This Bill is not expected to have a significant impact on the correctional system.

**FISCAL IMPACT**

This Bill is not expected to have a significant fiscal impact.

**SOURCES**

Criminal and Juvenile Justice Planning Division,  
Department of Human Rights

(LSB 1722hv, MDF)

FILED MARCH 11, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 449

H-1322

1 Amend House File 449 as follows:

A 2 1. Page 1, by striking lines 1 through 5.  
3 2. Page 1, line 9, by striking the word "both"  
4 and inserting the following: "all".

B 5 3. Page 1, by inserting after line 10 the  
6 following:

7 "\_\_\_\_. Flunitrazepam has been consumed by or  
8 administered to the other participant without the  
9 other participant's knowledge."

10 4. Page 1, line 12, by striking the word  
11 "resisting" and inserting the following: "consenting  
12 to".

A 13 5. Title page, by striking lines 2 through 4 and  
14 inserting the following: "from consenting by  
15 flunitrazepam, and providing penalties."

16 6. By renumbering as necessary.

By GRUNDBERG of Polk

H-1322 FILED MARCH 24, 1997

A-Adopted 3-25-97 (p. 777)

B-w/d 3-25-97 (p. 777)

HOUSE FILE 449

H-1255

1 Amend House File 449 as follows:

2 1. Page 1, line 9, by striking the word "both"  
3 and inserting the following: "all".

4 2. Page 1, by inserting after line 10 the  
5 following:

6 "\_\_\_\_. Flunitrazepam has been consumed by or  
7 administered to the other participant without the  
8 other participant's knowledge."

By GRUNDBERG of Polk

H-1255 FILED MARCH 19, 1997

W/D 3/25/97 (p. 777)

## HOUSE FILE 449

H-1308

- 1 Amend House File 449 as follows:  
2 1. Page 1, by striking lines 1 through 5.  
3 2. Page 1, line 9, by striking the word "both"  
4 and inserting the following: "all".  
5 3. Page 1, by inserting after line 10 the  
6 following:  
7 "\_\_\_\_. Flunitrazepam has been consumed by or  
8 administered to the other participant without the  
9 other participant's knowledge."  
10 4. Page 1, line 12, by striking the word  
11 "resisting" and inserting the following: "consenting  
12 to".  
13 5. By renumbering as necessary.

By GRUNDBERG of Polk

H-1308 FILED MARCH 24, 1997

*w/d 3-25-97 (p. 777)*

## HOUSE FILE 449

H-1321

- 1 Amend House File 449 as follows:  
2 1. Page 1, line 9, by striking the words  
3 "flunitrazepam and both" and inserting the following:  
4 "a controlled substance, which may include but is not  
5 limited to flunitrazepam, and all".  
6 2. Page 1, by inserting after line 10 the  
7 following:  
8 "\_\_\_\_. The controlled substance which may include  
9 but is not limited to flunitrazepam, has been consumed  
10 by or administered to the other participant without  
11 the other participant's knowledge."  
12 3. Page 1, line 11, by striking the word  
13 "Flunitrazepam" and inserting the following: "The  
14 controlled substance, which may include but is not  
15 limited to flunitrazepam,".  
16 4. Page 1, line 15, by striking the word  
17 "flunitrazepam" and inserting the following: "the  
18 controlled substance, which may include but is not  
19 limited to flunitrazepam,".  
20 5. Title page, line 2, by striking the word  
21 "flunitrazepam" and inserting the following: "a  
22 controlled substance including flunitrazepam".  
23 6. By relettering as necessary.

By KREIMAN of Davis

H-1321 FILED MARCH 24, 1997

*Adopted 3-25-97 (p. 778)*

S-3/26/97 Judiciary  
4/3/97 Do Pass  
S-4/10/97 Unfinished Business Calendar

HOUSE FILE 449  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 52)

(As Amended and Passed by the House, March 25, 1997)

Passed House, Date \_\_\_\_\_ Passed Senate, Date 4-16-97 (p.1204)  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 49 Nays 0  
Approved April 23, 1997

**A BILL FOR**

1 An Act to prohibit sex acts when one participant was prevented  
2 from consenting by a controlled substance including  
3 flunitrazepam, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

Deleted Language \*

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1 Section 1. Section 709.4, Code 1997, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 3. The act is performed while the other  
4 participant is under the influence of a controlled substance,  
5 which may include but is not limited to flunitrazepam, and all  
6 of the following are true:

7 a. The controlled substance which may include but is not  
8 limited to flunitrazepam, has been consumed by or administered  
9 to the other participant without the other participant's  
10 knowledge.

11 b. The controlled substance, which may include but is not  
12 limited to flunitrazepam, prevents the other participant from  
13 consenting to the act.

14 c. The person performing the act knows or reasonably  
15 should have known that the other participant was under the  
16 influence of the controlled substance, which may include but  
17 is not limited to flunitrazepam.

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influence of the controlled substance, which may include but is not limited to flunitrazepam.

HOUSE FILE 449

AN ACT

TO PROHIBIT SEX ACTS WHEN ONE PARTICIPANT WAS PREVENTED FROM CONSENTING BY A CONTROLLED SUBSTANCE INCLUDING FLUNITRAZEPAM, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 709.4, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The act is performed while the other participant is under the influence of a controlled substance, which may include but is not limited to flunitrazepam, and all of the following are true:

a. The controlled substance which may include but is not limited to flunitrazepam, has been consumed by or administered to the other participant without the other participant's knowledge.

b. The controlled substance, which may include but is not limited to flunitrazepam, prevents the other participant from consenting to the act.

c. The person performing the act knows or reasonably should have known that the other participant was under the

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 449, Seventy-seventh General Assembly.

Approved *April 23*, 1997

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ELIZABETH ISAACSON  
Chief Clerk of the House

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TERRY E. BRANSTAD  
Governor