

AMENDED IN ASSEMBLY JULY 7, 1996

AMENDED IN SENATE MAY 13, 1996

AMENDED IN SENATE APRIL 8, 1996

**SENATE BILL**

**No. 2164**

**Introduced by Senator Hayden**

*(Principal coauthor: Assembly Member Bowler)*

*(Coauthor: Assembly Member Rainey)*

February 23, 1996

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An act to amend Section ~~11056~~ of, and to add Section ~~11371.5~~ to, ~~11057~~ of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 2164, as amended, Hayden. Controlled substances: flunitrazepam.

~~(1) Existing law categorizes controlled substances into 5 schedules and places the greatest restrictions on those contained in Schedule I.~~

This bill would include in Schedule ~~III~~ IV the depressant flunitrazepam. This bill would impose a state-mandated local program upon local governments by creating new crimes.

~~(2) Proposition 8, an initiative statute approved by the voters at the June 8, 1982, primary election, prescribes a 5-year prison sentence enhancement for any person convicted of a serious felony, as defined, who has been previously convicted of a serious felony. This initiative statute provides that any amendment of its provisions by the Legislature shall require a 2/3 vote of the membership of each house. Chapter 12 of the~~

~~Statutes of 1994 amended the initiative statute and prescribes enhanced prison sentences for any person convicted of a felony who has one or more prior felony convictions, as defined.~~

~~This bill would provide that a felony conviction for a controlled substance offense with respect to flunitrazepam shall not constitute a current felony conviction for purposes of the above sentence enhancement provisions. Because this provision would constitute an amendment of an initiative statute, the bill would require a  $\frac{2}{3}$  vote.~~

~~(3) Proposition 184, an initiative statute approved by the voters at the November 8, 1994, general election, added Section 1170.12 to the Penal Code. The initiative statute provides that any amendment of its provisions by the Legislature shall require a  $\frac{2}{3}$  vote of the membership of each house. Section 1170.12 of the Penal Code also prescribes enhanced sentences for any person convicted of a felony who has one or more prior felony convictions, as defined.~~

~~This bill would provide that a felony conviction for a controlled substance offense with respect to flunitrazepam shall not constitute a present felony conviction for purposes of the above sentence enhancement provisions. Because this provision would also constitute an amendment of an initiative statute, the bill would require a  $\frac{2}{3}$  vote.~~

~~(4)~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$  majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1.—Section 11056 of the Health and Safety~~
- 2 ~~SECTION 1. (a) The Legislature finds and declares~~
- 3 ~~the following:~~



1 (1) *The federal Drug Enforcement Agency is*  
2 *attempting to schedule Rohypnol (flunitrazepam) as a*  
3 *Schedule I controlled substance.*

4 (2) *The Los Angeles Police Department Drug*  
5 *Enforcement Unit has urged that Rohypnol be classified*  
6 *as a Schedule I controlled substance.*

7 (3) *Rohypnol may have a high potential for abuse, and*  
8 *already has been associated with violent crimes,*  
9 *including rape.*

10 (b) *Accordingly, the Legislature reserves the right to*  
11 *hold hearings and make findings that Rohypnol should be*  
12 *classified as a Schedule I controlled substance in the*  
13 *future, notwithstanding its classification in this bill.*

14 SEC. 2. *Section 11057 of the Health and Safety Code*  
15 *is amended to read:*

16 11057. (a) *The controlled substances listed in this*  
17 *section are included in Schedule IV.*

18 (b) *Schedule IV shall consist of the drugs and other*  
19 *substances, by whatever official name, common or usual*  
20 *name, chemical name, or brand name designated, listed*  
21 *in this section.*

22 (c) *Narcotic drugs. Unless specifically excepted or*  
23 *unless listed in another schedule, any material,*  
24 *compound, mixture, or preparation containing any of the*  
25 *following narcotic drugs, or their salts calculated as the*  
26 *free anhydrous base or alkaloid, in limited quantities as*  
27 *set forth below:*

28 (1) *Not more than 1 milligram of difenoxin and not less*  
29 *than 25 micrograms of atropine sulfate per dosage unit.*

30 (2) *Dextropropoxyphene*  
31 *(alpha-(+)-4-dimethylamino-1,*  
32 *2-diphenyl-3-methyl-2-propionoxybutane).*

33 (d) *Depressants. Unless specifically excepted or unless*  
34 *listed in another schedule, any material, compound,*  
35 *mixture, or preparation which contains any quantity of*  
36 *the following substances, including its salts, isomers, and*  
37 *salts of isomers whenever the existence of those salts,*  
38 *isomers, and salts of isomers is possible within the specific*  
39 *chemical designation:*

40 (1) *Alprazolam.*



- 1 (2) Barbital.
- 2 (3) Chloral betaine.
- 3 (4) Chloral hydrate.
- 4 (5) Chlordiazepoxide.
- 5 (6) Clonazepam.
- 6 (7) Clorazepate.
- 7 (8) Diazepam.
- 8 (9) Ethchlorvynol.
- 9 (10) Ethinamate.
- 10 (11) *Flunitrazepam*.
- 11 (12) Flurazepam.
- 12 ~~(12)~~
- 13 (13) Lorazepam.
- 14 ~~(13)~~
- 15 (14) Mebutamate.
- 16 ~~(14)~~
- 17 (15) Meproamate.
- 18 ~~(15)~~
- 19 (16) Methohexital.
- 20 ~~(16)~~
- 21 (17) Methylphenobarbital (Mephobarbital).
- 22 ~~(17)~~
- 23 (18) Oxazepam.
- 24 ~~(18)~~
- 25 (19) Paraldehyde.
- 26 ~~(19)~~
- 27 (20) Petrichoral.
- 28 ~~(20)~~
- 29 (21) Phenobarbital.
- 30 ~~(21)~~
- 31 (22) Prazepam.
- 32 ~~(22)~~
- 33 (23) Quazepam.
- 34 ~~(23)~~
- 35 (24) Temazepam.
- 36 ~~(24)~~
- 37 (25) Triazolam.
- 38 (e) Fenfluramine. Any material, compound, mixture,
- 39 or preparation which contains any quantity of the
- 40 following substances, including its salts, isomers (whether



1 optical, position, or geometric), and salts of those isomers,  
2 whenever the existence of those salts, isomers, and salts  
3 of isomers is possible:

4 (1) Fenfluramine.

5 (f) Stimulants. Unless specifically excepted or unless  
6 listed in another schedule, any material, compound,  
7 mixture, or preparation which contains any quantity of  
8 the following substances having a stimulant effect on the  
9 central nervous system, including its salts, isomers  
10 (whether optical, position, or geometric), and salts of  
11 those isomers is possible within the specific chemical  
12 designation:

13 (1) Diethylpropion.

14 (2) Phentermine.

15 (3) Pemoline (including organometallic complexes  
16 and chelates thereof).

17 (4) Pipradrol.

18 (5) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

19 (g) Other substances. Unless specifically excepted or  
20 unless listed in another schedule, any material,  
21 compound, mixture or preparation which contains any  
22 quantity of pentazocine, including its salts.

23 *SEC. 3. No reimbursement is required by this act*  
24 *pursuant to Section 6 of Article XIII B of the California*  
25 *Constitution because the only costs that may be incurred*  
26 *by a local agency or school district will be incurred*  
27 *because this act creates a new crime or infraction,*  
28 *eliminates a crime or infraction, or changes the penalty*  
29 *for a crime or infraction, within the meaning of Section*  
30 *17556 of the Government Code, or changes the definition*  
31 *of a crime within the meaning of Section 6 of Article*  
32 *XIII B of the California Constitution.*

33 *Notwithstanding Section 17580 of the Government*  
34 *Code, unless otherwise specified, the provisions of this act*  
35 *shall become operative on the same date that the act*  
36 *takes effect pursuant to the California Constitution.*



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**All matter omitted in this version of the bill appears in the bill as amended in the Senate, May 13, 1996 (JR 11)**

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