

ASSEMBLY BILL NO. 116—ASSEMBLYMAN CARPENTER

FEBRUARY 15, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing crimes involving certain controlled substances and other related substances. (BDR 40-420)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; reducing the minimum quantity of a controlled substance or other related substance required to constitute certain crimes of trafficking in those substances; increasing the minimum term and maximum term of imprisonment for the commission of such a crime; establishing a minimum mandatory amount of bail to be set for a person who is arrested for a violation of such a crime in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 1** of this bill reduces the minimum quantity of flunitrazepam or
2 gamma-hydroxybutyrate or their precursors or a schedule I controlled substance
3 other than marijuana required for conviction of trafficking in controlled substances.
4 (NRS 453.3385) **Section 1** also increases the minimum term of imprisonment for
5 trafficking in these controlled substances from 1 year to 2 years and increases the
6 maximum term of imprisonment from 6 years to 10 years. (NRS 453.3385)
7 **Section 2** of this bill imposes a duty upon the courts to require bail of at least
8 \$50,000 for persons arrested for trafficking in flunitrazepam or gamma-
9 hydroxybutyrate or their immediate precursor or a schedule I controlled substance
10 except marijuana, unless the court determines that the amount is excessive under
11 the circumstances. (NRS 178.4851)



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 453.3385 is hereby amended to read as
2 follows:

3 453.3385 Except as otherwise authorized by the provisions of
4 NRS 453.011 to 453.552, inclusive, a person who knowingly or
5 intentionally sells, manufactures, delivers or brings into this State or
6 who is knowingly or intentionally in actual or constructive
7 possession of flunitrazepam, gamma-hydroxybutyrate, any
8 substance for which flunitrazepam or gamma-hydroxybutyrate is an
9 immediate precursor or any controlled substance which is listed in
10 schedule I, except marijuana, or any mixture which contains any
11 such controlled substance, shall be punished, unless a greater
12 penalty is provided pursuant to NRS 453.322, if the quantity
13 involved:

14 1. Is ~~4~~ **3** grams or more, but less than 14 grams, for a
15 category B felony by imprisonment in the state prison for a
16 minimum term of not less than ~~1 year~~ **2 years** and a maximum
17 term of not more than ~~6~~ **10** years and by a fine of not more than
18 \$50,000.

19 2. Is 14 grams or more, but less than 28 grams, for a category
20 B felony by imprisonment in the state prison for a minimum term of
21 not less than 2 years and a maximum term of not more than 15 years
22 and by a fine of not more than \$100,000.

23 3. Is 28 grams or more, for a category A felony by
24 imprisonment in the state prison:

25 (a) For life with the possibility of parole, with eligibility for
26 parole beginning when a minimum of 10 years has been served; or

27 (b) For a definite term of 25 years, with eligibility for parole
28 beginning when a minimum of 10 years has been served,
29 ↳ and by a fine of not more than \$500,000.

30 **Sec. 2.** NRS 178.4851 is hereby amended to read as follows:

31 178.4851 1. ~~Upon~~ **Except as otherwise provided in**
32 **subsection 7, upon** a showing of good cause, a court may release
33 without bail any person entitled to bail if it appears to the court that
34 it can impose conditions on the person that will adequately protect
35 the health, safety and welfare of the community and ensure that he
36 will appear at all times and places ordered by the court.

37 2. In releasing a person without bail the court may impose such
38 conditions as it deems necessary to protect the health, safety and
39 welfare of the community and to ensure that he will appear at all
40 times and places ordered by the court, including, without limitation,
41 any condition set forth in subsection 8 of NRS 178.484.



1 3. Upon a showing of good cause, a sheriff or chief of police
2 may release without bail any person charged with a misdemeanor
3 pursuant to standards established by a court of competent
4 jurisdiction.

5 4. Before a person may be released without bail, he must file
6 with the clerk of the court of competent jurisdiction a signed
7 document stating that:

8 (a) He will appear at all times and places as ordered by the court
9 releasing him and as ordered by any court before which the charge
10 is subsequently heard;

11 (b) He will comply with the other conditions which have been
12 imposed by the court and are stated in the document;

13 (c) If he fails to appear when so ordered and is taken into
14 custody outside of this State, he waives all his rights relating to
15 extradition proceedings; and

16 (d) He understands that any court of competent jurisdiction may
17 revoke the order of release without bail and may order him into
18 custody or require him to furnish bail or otherwise ensure the
19 protection of the health, safety and welfare of the community or his
20 appearance.

21 5. If a jurisdiction incurs any costs in returning a person to the
22 jurisdiction to stand trial, the person failing to appear is responsible
23 for paying those costs as restitution.

24 6. An order issued pursuant to this section that imposes a
25 condition on a person who is released without bail must include a
26 provision ordering a law enforcement officer to arrest the person if
27 he has probable cause to believe that the person has violated a
28 condition of his release.

29 ***7. If a person is arrested for a violation of NRS 453.3385, the***
30 ***court shall require that bail be set at a minimum of \$50,000,***
31 ***unless the court determines that the amount is excessive under the***
32 ***circumstances.***



