

# SENATE BILL REPORT

## SB 5304

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As Reported By Senate Committee On:  
Law & Justice, March 4, 1997

**Title:** An act relating to drug-induced rape.

**Brief Description:** Considering drug-induced helplessness or physical incapacity as an element of rape in the second degree.

**Sponsors:** Senators Fairley, Hargrove, Sheldon, Haugen, Goings, Kohl, Winsley and Oke.

**Brief History:**

**Committee Activity:** Law & Justice: 3/3/97, 3/4/97 [DP].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Roach, Chair; Fairley, Goings, Hargrove, Kline, Long and McCaslin.

**Staff:** Martin Lovinger (786-7443)

**Background:** Under current law, second degree rape is a class A felony punishable by a maximum sentence of life in prison and a \$50,000 fine. This crime is committed, among other ways, by having sexual intercourse with another person who is incapable of giving consent by reason of being physically helpless or mentally incapacitated. However, there is no mention in the law about drug-induced physical helplessness or mental incapacity. This has raised serious concerns as attention has been focused on the increased use of so-called date-rape drugs, such as Rohypnol.

It is felt that the best protection that can be provided to the potential future victims of this crime is to make it clear to the potential perpetrators that using a drug in order to rape will be severely punished.

**Summary of Bill:** It is specified that second degree rape can be committed by having sexual intercourse with another person who is incapable of consent due to controlled substance-induced physical helplessness or mental incapacity caused by the perpetrator of the rape.

**Appropriation:** None.

**Fiscal Note:** Requested on February 28, 1997.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Enforcement of criminal law is local, not federal. Use of these drugs is just one more way in which rapists can victimize people. This bill is needed to clarify that

use of controlled substances is not a defense. The use of these drugs is increasing because they are very effective, so the problem must be addressed now.

**Testimony Against:** None.

**Testified:** Lori Delany, Washington Coalition of Sexual Assault Programs (pro); Don Williams, Executive Director, Washington State Board of Pharmacy (pro).