

**Consent Laws Last Updated: December 2017(source RAINN [Rape, Abuse & Incest National Network])**

State	Does intoxication impact the victim's ability to consent?
Alabama	It can, depending on the circumstances. The victim is deemed mentally incapacitated, and unable to consent to sexual activity, where an intoxicating substance that is administered to the victim without his or her consent causes the victim to be temporarily incapable of appraising or controlling his or her conduct. Ala. Code §13A-6-60(6). Please see "Is voluntary intoxication a defense to sex crimes?" below for more information regarding intoxication.
Alaska	The Alaska Statute does not directly address intoxication, but intoxication that causes an individual to be "unaware that a sexual act is being committed" may invalidate consent.
Arizona	Yes, a victim can be incapable of consent by reason of drugs, alcohol or any other similar impairment of cognition as long as such condition is known or should have reasonably been known to the defendant. Arizona Revised Statute §13-1401.
Arkansas	Yes, a person that is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance: administered to the person without the person's consent; or that renders the person unaware a sexual act is occurring, is deemed "mentally incapacitated" and unable to give consent. Arkansas Code § 5-14-101.
California	Yes, the accused is guilty of rape if engaging in an act of sexual intercourse where the other person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known, by the accused. California Penal Code § 261.
Colorado	Yes, any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if the actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission. Colorado Revised Statutes Annotated § 18-3-404. Please note: as written, this part of the statute only applies in situations wherein the perpetrator provides the intoxicants to the victim, unbeknownst to the victim. If the victim ingests intoxicants knowingly and voluntarily, it is unclear how this statute would apply. In such cases, other parts of Colorado Revised Statutes Annotated §18-3-404 may apply. Please review statute for further detail.
Connecticut	Yes, "mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent. Connecticut General Statutes Annotated §53a-65.

<b>Delaware</b>	It can, but not in all circumstances. There is no consent if the defendant has substantially impaired the victim's power to appraise or control the victim's own conduct by administering or employing without the other person's knowledge or against the other person's will, drugs, intoxicants or other means for the purpose of preventing resistance. 11 Delaware Code § 761.
<b>District of Columbia</b>	Yes. A victim's ability to consent is impacted by his/her intoxication due to a drug, intoxicant, or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct, given involuntarily or unknowingly given to the victim by the accused. D.C. Code §§ 22-3002.
<b>Florida</b>	Yes, " <b>mentally incapacitated</b> " means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent. Florida Statutes §794.011. A person that is physically helpless may not be able to provide intelligent, knowing, and voluntary consent.
<b>Georgia</b>	Yes, a victim whose will is temporarily lost from intoxication, arising from use of drugs or other cause, is unable to consent to sexual activity. Gore v. State, 119 Ga. 418 (1904); Evans v. State, 67 Ga. App. 631 (1942).
<b>Guam</b>	Yes. A person commits a sex crime if the person engages in sexual penetration or sexual contact with another person and the actor knows or has reason to know that the victim is mentally incapacitated, which includes a person that is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without his or her consent. 9 G.C.A. § 25.15; 25.20; 25.25; 25.30.
<b>Hawaii</b>	Yes. A person commits a sex crime if the person subjects to a sexual act another person who is mentally defective or mentally incapacitated, which includes a person who is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a substance administered to the person without the person's consent.
<b>Idaho</b>	Yes. A person commits a sex crime if the victim is unable to resist due to any intoxicating, narcotic, or anesthetic substance. Idaho Statutes §18-6101.

<b>Illinois</b>	Yes. A person commits a sex crime if that person knows that the victim is unable to understand the nature of the act or is unable to give knowing consent. 720 ILCS 5/11-1.20; 720 ILCS 5/11-1.50. In addition, the crime and punishment is more severe if the accused delivers (by injection, inhalation, ingestion, transfer of possession, or any other means) any controlled substance to the victim without the victim's consent or by threat or deception for other than medical purposes. 720 ILCS 5/11-1.30; 720 ILCS 5/11-1.60.
<b>Indiana</b>	Yes, if the intoxication causes the victim to be unaware that the sexual intercourse or other sexual conduct is occurring. IC §§ 35-42-4-1; 35-42-4-8. In addition, the crime and punishment is more severe if the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or a controlled substance or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge. IC §§ 35-42-4-1; 35-42-4-3; 35-42-4-5; 35-42-4-8; 35-42-4-9.
<b>Iowa</b>	Yes. A person commits a sex crime if: (1) the sex act is performed while the other person is under the influence of a controlled substance which prevents that person from consenting to the act and the person performing the act knows or reasonably should have known that the other person was under the influence of the controlled substance; or (2) the sex act is performed while the other person is mentally incapacitated. I.C.A. § 709.4.
<b>Kansas</b>	Yes. A person commits a sex crime where the person otherwise meets the elements of the sex crime and the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender. K.S.A. 21-5503.
<b>Kentucky</b>	Yes. A person is deemed incapable of consent when he or she is mentally incapacitated, which includes intoxication, or if the intoxication causes the person to be physically helpless. KRS § 510.020.
<b>Louisiana</b>	Yes. The following are deemed to be without the lawful consent of the victim: (1) when the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim; (2) when the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity. LSA-R.S. 14:42.1, LSA-R.S. 14:43.

<b>Maine</b>	Yes. A person is guilty of a sex crime if that person engages in a “sexual act” with another person and the actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, administering or employing drugs, intoxicants or other similar means. 17-A M.R.S.A. 253. Please note that the above only applies if the perpetrator provides the intoxicants to the victim, but says nothing about instances in which the victim voluntarily consumed alcohol, that was not provided by the perpetrator, prior to the assault.
<b>Maryland</b>	Yes. A person may not engage in “vaginal intercourse,” “sexual act,” or “sexual contact” with another if the victim is a mentally incapacitated individual, and the person performing the act knows or reasonably should know that the victim is a mentally incapacitated individual. MD Code, Criminal Law, §3-304; 3-307.
<b>Massachusetts</b>	Yes, if such intoxication renders the person incapable of giving consent. Com. v. Urban, 880 N.E.2d 753, 450 Mass. 608 (2008).
<b>Michigan</b>	Yes, if the intoxication is as a result of a narcotic, anesthetic or other substance administered to that person without his or her consent. See definition of “Mentally Incapacitated” Mich. Comp. Laws. Ann. § 750.520a(k).
<b>Minnesota</b>	Yes, if such intoxication results in the victim becoming mentally incapacitated or physically helpless. State v. Berrios, 788 N.W.2d 135, App.2010 (finding that evidence was sufficient to support finding that complainant was physically helpless, thus supporting charge of third-degree criminal sexual conduct relating to sexual encounter between defendant and complainant, where complainant testified that she was severely intoxicated and that she was unconscious when defendant penetrated her, and gaps in complainant's memory were consistent with testimony that she was severely intoxicated).
<b>Mississippi</b>	Yes, a person is guilty of sexual battery if he or she engages in sexual penetration with (i) a physically helpless person, which includes a person who for any reason is physically incapable of communicating an unwillingness to engage in an act, or (ii) a mentally incapacitated person, which includes a person who is rendered incapable of knowing or controlling his or her conduct, or incapable of resisting an act due to the influence of any drug, narcotic, anesthetic, or other substance administered to that person without his or her consent. Miss. Code Ann. §97-3-95.

<b>Missouri</b>	Yes, a person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse. Mo. Ann. Stat. § 566.030.
<b>Montana</b>	Yes. Consent is ineffective if: it is given by a person who by reason of youth, mental disease, disorder, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense. Mont. Code Ann. §45-2-211(2)(b).
<b>Nebraska</b>	Yes. Any person who subjects another person to sexual penetration who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in the first degree. Neb. Rev. Stat. §28-319(1)(b). Any person who subjects another person to sexual contact who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree. Neb. Rev. Stat. §28-320(1)(b). The evidence established that the victim was incapacitated by alcohol, and her assailant knew or should have known that she was mentally or physically incapable of resisting or appraising the nature of her conduct. State v. Freeman, 267 Neb. 737, 753 (2004).
<b>Nevada</b>	Although there is no specific mention of intoxication in the statute, a person is deemed incapable of consent if he or she is “mentally or physically incapable of resisting or understanding the nature of his or her conduct.” Nev. Rev. Stat. Ann. § 200.366(1).
<b>New Hampshire</b>	Yes. A person is deemed unable to consent if he or she is “mentally incapacitated” after being administered “any intoxicating substance,” without his or her knowledge or consent. N.H. Rev. Stat. Ann. § 632-A:2(f).
<b>New Jersey</b>	Yes, it is aggravated sexual assault to commit an act of sexual penetration with a person that the actor knew or should have known was mentally incapacitated, which includes when he or she is under the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent. N.J. Stat. Ann. § 2C:14-2(a)(7); N.J. Stat. Ann. § 2C:14-1(i).
<b>New Mexico</b>	Yes, engaging in a sexual act when the perpetrator knows or has reason to know that the victim is unconscious or otherwise physically helpless is a criminal offense. New Mexico Statutes §30-9-10; §30-9-11.

<b>New York</b>	Yes, a mentally incapacitated person, which includes a person that is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, is incapable of giving consent. New York Penal Law §130.00; §130.05; §130.90.
<b>North Carolina</b>	Yes, it is a crime to engage in sexual activity with a mentally incapacitated person when the person performing the act knows or should have reasonably known the other person was mentally incapacitated. North Carolina General Statutes Annotated §14-27.22; §14-27.27; §14-27.33.
<b>North Dakota</b>	Yes, a person who engages in a sexual act with another, or who causes another to engage in a sexual act, is guilty of an offense if that person or someone with that person's knowledge has substantially impaired the victim's power to appraise or control the victim's conduct by administering or employing without the victim's knowledge intoxicants, a controlled substance as defined in chapter 19-03.1, or other means with intent to prevent resistance. N.D. Century Code Chapter 12.1-20-03(1)(b).
<b>Ohio</b>	Yes, no person shall engage in sexual conduct with another if for the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception. Ohio Rev. Code Ann. § 2907.02.
<b>Oklahoma</b>	Yes. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit. Okla. Stat. tit. 21, § 1111(4).
<b>Oregon</b>	Not explicitly. However, the definition for "physically helpless" includes that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. Or. Rev. Stat. § 163.305(5).
<b>Pennsylvania</b>	Yes. It is rape to have sexual intercourse where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance. 18 Pa.C.S.A. § 3121.

<b>Puerto Rico</b>	Yes. Any person who performs sexual penetration, whether vaginal, anal, oral-genital, digital or instrumental commits a severe second degree felony if the victim's capability to consent has been annulled or diminished substantially without his/her knowledge or without his/her consent by means of hypnosis, narcotics, depressants or stimulants, or similar means or substances. Puerto Rico Stat. tit. 33 § 4770.
<b>Rhode Island</b>	Yes. A person is guilty of first degree sexual assault if he or she engages in sexual penetration with another person, and if the accused, not being the spouse, knows or has reason to know that the victim is mentally incapacitated, mentally disabled, or physically helpless. 18 R.I. Gen. Laws § 11-37-2.
<b>South Carolina</b>	Yes. A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and the actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance. S.C. Code Ann. §16-3-652.
<b>South Dakota</b>	Yes, a person can be deemed incapable of consenting to sexual contact because of any intoxicating agent. S.D. Code §22-22-1(4).
<b>Tennessee</b>	Yes, the definition of mentally incapacitated encompasses the situation where a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent. Tenn. Code Ann. §39-13-501.
<b>Texas</b>	Yes, a sexual assault is considered to occur without the consent of the other person if the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge. Texas Code Ann. §22.011(b)(6).
<b>Utah</b>	A sexual offense is considered to occur without consent of the victim if the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge. Utah Code Ann. §76-5-406(8).
<b>Vermont</b>	Yes, if the intoxication renders the victim mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct and the actor knows of such victim's mental incapacity. 13 Vermont Stat. Ann. §3254.

<b>Virgin Islands</b>	Yes, a person who engages in sexual contact with a person when the other person's ability to consent to or resist the contact has been substantially impaired by an intoxicating, narcotic or anesthetic agent, is guilty of unlawful sexual contact in the first degree. <a href="#">14 V.I.C. § 1708</a> .
<b>Virginia</b>	Yes, “ <b>mental incapacity</b> ,” a statutory term that applies to rape and other sex crimes, is not limited to a permanent condition and may extend to a transitory circumstance such as intoxication if the nature an degree of the intoxication has gone beyond the stage of merely reduced inhibition and has reached a point where the victim does not understand the nature or consequences of the sexual act; the cause of the victim's lack of ability to give consent is not dispositive. <i>Molina v. Comm.</i> , 636 S.E.2d 470 (2006).
<b>Washington</b>	Yes, a person that is under the influence of a substance “which prevents a person from understanding the nature or consequences of the act of sexual intercourse” is “ <b>mentally incapacitated</b> ” and incapable of giving consent. <a href="#">Wash. Rev. Code Ann. § 9A.44.010</a> .
<b>West Virginia</b>	Yes, a person who is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlle or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent is deemed mentally incapacitated and cannot consent. W. Va. Code Ann. §§ 61-8B-1, 61-8B-2(c), 61-8B-5, 61-8B-8.
<b>Wisconsin</b>	Yes, if the victim is under the influence of an intoxicant to a degree which renders that person incapable of freely giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent. Wis. Stat. Ann. § 940.225(2).
<b>Wyoming</b>	Yes, if the intoxication makes the victim “physically helpless” or have a mental illness, mental deficiency or developmental disability that makes them incapable of appraising the nature of their conduct. <a href="#">Wyo. Stat. Ann. § 6-2-301</a> ; <a href="#">Wyo. Stat. Ann. § 6-2-302</a> .