

Acts Amendment (Weapons) Bill 2008

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Western Australia

LEGISLATIVE ASSEMBLY

Acts Amendment (Weapons) Bill 2008

A Bill for

An Act to amend *The Criminal Code* and the *Weapons Act 1999*.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Acts Amendment (Weapons) Act 2008*.

2. Commencement

5 This Act comes into operation as follows:

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

Part 2 — *The Criminal Code* amended

3. *The Criminal Code* amended in this Part

The amendments in this Part are to *The Criminal Code*.

4. Sections 67A to 67F inserted

5 After section 67 the following sections are inserted —

“

67A. Being armed in or near place of public entertainment

(1) In this section —

10 **“place of public entertainment”** means —

(a) a place where the public is present and where entertainment of any kind is about to be, is being, or has just been provided to the public, whether on payment or not; or

15 (b) licensed premises, as that term is defined by the *Liquor Control Act 1988* section 3(1);

“prescribed place” means —

(a) a place of public entertainment; or

20 (b) a public place within 50 metres of a place of public entertainment.

(2) A person who, without a lawful excuse, is armed with any dangerous or offensive weapon or instrument in, or with intent to enter, a prescribed place is guilty of a crime and is liable to imprisonment for 5 years.

25 Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

67B. Being armed in public in company

A person who, without a lawful excuse, is armed with any dangerous or offensive weapon or instrument in a

public place when in company with 2 or more other persons is guilty of a crime and is liable to imprisonment for 5 years.

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

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67C. Having ready access to both weapons and cash

(1) In this section —

“**prescribed amount**” means the amount prescribed for the purposes of the *Firearms Act 1973* section 19(1ab)(a)(ii).

10

(2) A person who, without a lawful excuse, has ready access simultaneously to both —

(a) a dangerous or offensive weapon or instrument; and

15

(b) cash equal to or more than the prescribed amount,

is guilty of a crime and is liable to imprisonment for 5 years.

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

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67D. Meaning of “lawful excuse” in sections 67A, 67B and 67C

(1) In sections 67A, 67B and 67C, being armed for defence is not a lawful excuse unless the person —

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(a) has reasonable grounds to apprehend that circumstances necessitating defence may arise; and

(b) is armed only for defence; and

- 5
- (c) is armed only —
- (i) with a weapon or instrument the sole purpose of which is to spray oleoresin capsicum; or
 - (ii) with a briefcase or suitcase that is commercially designed and made to discharge an electric current so as to deter the theft of the case.
- 10
- (2) In sections 67A, 67B and 67C, a lawful excuse includes the following —
- (a) being a police officer acting in the course of duty;
 - (b) being a prison officer as defined in the *Prisons Act 1981* section 3(1) and (2) acting in the course of duty;
 - (c) being a person authorised to exercise a power set out in Division 1, 2 or 3 of Schedule 2 to the *Court Security and Custodial Services Act 1999* or a power set out in Schedule 3 to that Act acting in the course of duty;
 - (d) being the holder of, and engaged in activities authorised by, a security officer's licence issued under the *Security and Related Activities (Control) Act 1996* while armed in accordance with Part 3 Division 3 of that Act.
- 15
- 20
- 25

67E. Having ready access to both weapons and illegal drugs

- (1) In this section, being armed for defence is not a lawful excuse.
- 30
- (2) A person who, without a lawful excuse, has ready access simultaneously to both —
- (a) a dangerous or offensive weapon or instrument; and

s. 4

(b) a prohibited drug or a prohibited plant as those terms are defined in section 3(1) of the *Misuse of Drugs Act 1981* that, under section 6 or 7 of that Act, the person is not authorised to possess,
5 is guilty of a crime and is liable to imprisonment for 5 years.
Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

10 **67F. Proof of lawful excuse in sections 67A, 67B, 67C and 67E**

In a prosecution for an offence under section 67A, 67B, 67C or 67E, the accused has the onus of proving that the accused had a lawful excuse.

”.

Part 3 — Weapons Act 1999 amended

5. The Act amended in this Part

The amendments in this Part are to the *Weapons Act 1999*.

6. Section 6 amended

5 Section 6(1) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

“

Penalty: imprisonment for 3 years and a fine
of \$36 000.

10

”.

7. Section 7 amended

(1) Section 7(1) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

“

15

Penalty: imprisonment for 2 years and a fine
of \$24 000.

”.

(2) Section 7(2) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

20

“

Penalty: imprisonment for 2 years and a fine
of \$24 000.

”.

s. 8

8. Section 8 amended

Section 8(1) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

“

5

Penalty: imprisonment for 2 years and a fine
of \$24 000.

”.
