

Western Australia

**Criminal Code Amendment (Drink and Food
Spiking) Act 2007**

As at 21 Dec 2007

No. 31 of 2007

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Criminal Code Amendment (Drink and Food Spiking) Act 2007

CONTENTS

1.	Short title	2
2.	Commencement	2
3.	<i>The Criminal Code</i> amended	2
4.	Section 305A inserted	2
	305A. Intoxication by deception	2



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Criminal Code Amendment (Drink and Food Spiking) Act 2007

No. 31 of 2007

An Act to amend *The Criminal Code*.

[Assented to 21 December 2007]

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *Criminal Code Amendment (Drink and Food Spiking) Act 2007*.

2. Commencement

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. *The Criminal Code* amended

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

[* *Reprint 12 as at 1 June 2005 (see the Schedule to the Criminal Code Act 1913 appearing as Appendix B to the Criminal Code Act Compilation Act 1913).*

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 73 of 2006.]

4. Section 305A inserted

After section 305 the following section is inserted —

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305A. Intoxication by deception

(1) In this section —

“**harm**” includes an impairment of the senses or understanding of a person that the person might reasonably be expected to object to in the circumstances;

“**impair**” includes further impair and temporarily impair;

“**intoxicating substance**” includes any substance that affects a person’s senses or understanding.

- (2) For the purposes of this section giving a person drink or food includes preparing the drink or food for the person or making it available for consumption by the person.
- (3) This section applies if a person (the “**provider**”) causes another person to be given or to consume drink or food —
 - (a) containing an intoxicating substance that other person is not aware that it contains; or
 - (b) containing more of an intoxicating substance than that other person would reasonably expect it to contain.
- (4) Where this section applies and the provider —
 - (a) intends a person to be harmed by the consumption of the drink or food; or
 - (b) knows or believes that consumption of the drink or food is likely to harm a person,

the provider is guilty of a crime and is liable to imprisonment for 3 years.

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- (5) It is a defence to a charge under subsection (4) to prove that the accused person had reasonable cause to believe that each person who was likely to consume the drink or food would not have objected to consuming the drink or food if the person had been aware of the presence and quantity of the intoxicating substance in the drink or food.

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