

Western Australia

Acts Amendment (Weapons) Act 2009

As at 03 Dec 2009

No. 34 of 2009

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Acts Amendment (Weapons) Act 2009

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Western Australia

Acts Amendment (Weapons) Act 2009

No. 34 of 2009

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

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Acts Amendment (Weapons) Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) section 8 — on the 28th day after assent day;
- (c) the rest of the Act — on the day after assent day.

Part 2 — *The Criminal Code* amended

3. *The Criminal Code* amended

This Part amends *The Criminal Code*.

4. Sections 68A to 68E inserted

After section 67 insert:

68A. Provisions about lawful excuses under s. 68B, 68C, 68D and 68E

- (1) In a prosecution for an offence under section 68B, 68C, 68D or 68E, the accused has the onus of proving that the accused had a lawful excuse.
- (2) In sections 68B, 68C and 68D, being armed for defence is not a lawful excuse unless the person —
 - (a) has reasonable grounds to apprehend that circumstances necessitating defence may arise; and
 - (b) is armed only for defence; and
 - (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.
- (3) In sections 68B, 68C and 68D, lawful excuse includes the following —
 - (a) being a police officer acting in the course of duty;

- (b) being a security officer, as defined in the *Public Transport Authority Act 2003* section 3, acting in the course of duty;
- (c) being a prison officer, as defined in the *Prisons Act 1981* section 3(1) and (2), acting in the course of duty;
- (d) 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;
- (e) 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.

68B. Being armed in or near place of public entertainment

- (1) In this section —
 - lawful excuse* has a meaning affected by section 68A;
 - 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
 - (b) licensed premises, as defined by the *Liquor Control Act 1988* section 3(1);
 - prescribed place* means —
 - (a) a place of public entertainment; or
 - (b) a public place within 50 metres of a place of public entertainment.
- (2) A person who, without 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.

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

68C. Being armed in public in company

- (1) In this section —

lawful excuse has a meaning affected by section 68A.

- (2) A person who, without 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.

68D. Having ready access to both weapons and cash

- (1) In this section —

lawful excuse has a meaning affected by section 68A;
prescribed amount means the amount prescribed for the purposes of the *Firearms Act 1973* section 19(1ab)(a)(ii).

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

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

68E. Having ready access to both weapons and illegal drugs

- (1) In this section, being armed for defence is not a lawful excuse.
- (2) A person who, without lawful excuse, has ready access simultaneously to both —
 - (a) a dangerous or offensive weapon or instrument;
and
 - (b) a prohibited drug or a prohibited plant, as those terms are defined by the *Misuse of Drugs Act 1981* section 3(1), that, under section 6 or 7 of that Act, the person is not authorised to possess,

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.

Part 3 — Weapons Act 1999 amended

5. Act amended

This Part amends the *Weapons Act 1999*.

6. Section 6 amended

In section 6(1) delete the Penalty and insert:

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

7. Section 7 amended

(1) In section 7(1) delete the Penalty and insert:

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

(2) In section 7(2) delete the Penalty and insert:

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

8. Section 8A inserted

After section 7 insert:

8A. Selling and supplying controlled weapons to children

(1) In this section —

child means a person under 18 years of age.

s. 9

- (2) A person who sells a controlled weapon to a child commits an offence.
Penalty: imprisonment for 2 years and a fine of \$24 000.
- (3) A person who supplies a controlled weapon to a child commits an offence.
Penalty: imprisonment for 2 years and a fine of \$24 000.
- (4) It is a defence to a charge of an offence under subsection (3) to prove the accused believed on reasonable grounds that —
 - (a) possession by the child of the weapon would be lawful under section 7; or
 - (b) the child supplied with the weapon intended to use it only —
 - (i) to commit lawful acts in the course of a sporting or recreational activity; or
 - (ii) in circumstances, if any, prescribed by the regulations.

9. Section 8 amended

In section 8(1) delete the Penalty and insert:

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

10. Section 10 amended

In section 10(3) delete “7 or” and insert:

7, 8A or

11. Section 11 amended

In section 11 delete “7 or” and insert:

7, 8A or

12. Section 12 amended

In section 12(1) in the definition of *offence* delete “7 or” and insert:

7, 8A or

