



New South Wales

Crimes Amendment (Drink and Food Spiking) Act 2008 No 1

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Crimes Amendment (Drink and Food Spiking) Act 2008 No 1

Act No 1, 2008

An Act to amend the *Crimes Act 1900* in relation to drink and food spiking, and the use of intoxicating substances in the commission of other related offences. [Assented to 19 March 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Drink and Food Spiking) Act 2008*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

Intoxicating substance includes alcohol or a narcotic drug or any other substance that affects a person's senses or understanding.

[2] Section 4 (7)

Insert “, intoxicating substance” after “poison” wherever occurring.

[3] Section 38

Omit the section. Insert instead:

38 Using intoxicating substance to commit an indictable offence

A person who:

- (a) administers an intoxicating substance to another person, or
- (b) causes another person to take an intoxicating substance, with intent to enable himself or herself, or to assist a third person, to commit an indictable offence is guilty of an offence.

Maximum penalty: Imprisonment for 25 years.

[4] Section 38A

Insert after section 38:

38A Spiking drink or food

(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.

(2) A person:

- (a) who causes another person to be given or to consume drink or food:
 - (i) containing an intoxicating substance that the other person is not aware it contains, or
 - (ii) containing more of an intoxicating substance than the other person would reasonably expect it to contain, and

(b) who intends a person to be harmed by the consumption of the drink or food,
is guilty of an offence.

Maximum penalty: Imprisonment for 2 years or 100 penalty units, or both.

- (3) 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.
- (4) A person does not commit an offence against this section if the person has 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.
- (5) A person who uses an intoxicating substance in the course of any medical, dental or other health professional practice does not commit an offence against this section.
- (6) An offence against this section is a summary offence.

[5] Section 39 Using poison etc to endanger life or inflict grievous bodily harm

Insert “, intoxicating substance” after “poison” wherever occurring.

[6] Section 41 Using poison etc to injure or to cause distress or pain

Insert “, intoxicating substance” after “poison”.

[Agreement in principle speech made in Legislative Assembly on 28 February 2008
Second reading speech made in Legislative Council on 6 March 2008]

BY AUTHORITY