



New South Wales

Summary Offences Amendment (Spray Paint Cans) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988*:

- (a) to make it an offence to sell a spray paint can to a person under the age of 18 years, and
- (b) to authorise police officers to issue penalty notices in respect of that offence.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation. Commencement cannot be earlier than 6 months after the date of assent.

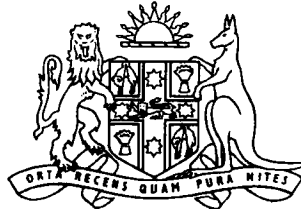
Clause 3 is a formal provision giving effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] creates the offence of selling a spray paint can to a person under the age of 18 years. There is a defence for an offender who establishes that he or she believed on reasonable grounds that the person was of or above the age of 18 years. If an employee contravenes the provision, his or her employer is taken to have contravened it also (with a defence for an employer who had no knowledge of the contravention where due diligence would not have prevented the contravention).

Schedule 1 [2] and [3] amend an existing provision for the issue of penalty notices to authorise the issue of penalty notices by police officers for the proposed new offence. The penalty under a penalty notice will be fixed by the regulations.

First print



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New South Wales

Summary Offences Amendment (Spray Paint Cans) Bill 2002

No. , 2002

A Bill for

An Act to amend the *Summary Offences Act 1988* to provide for an offence of selling spray paint cans to persons under 18 years of age.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Summary Offences Amendment (Spray Paint Cans) Act 2002</i> .	3 4
2 Commencement	5
(1) This Act commences on a day or days to be appointed by proclamation.	6 7
(2) A day appointed under this section must not be earlier than 6 months after the date of assent.	8 9
3 Amendment of Summary Offences Act 1988 No 25	10
The <i>Summary Offences Act 1988</i> is amended as set out in Schedule 1.	11

Schedule 1 Amendments

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(Section 3)

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[1] Section 10C

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Insert after section 10B:

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10C Sale of spray paint cans to persons under 18

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- (1) A person who sells a spray paint can to a person under the age of 18 years is guilty of an offence.

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Maximum penalty: 10 penalty units.

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- (2) It is a defence (proof of which lies on the person selling the spray paint can) to a prosecution for an offence under this section that the person selling the spray paint can believed on reasonable grounds that the person to whom the spray paint can was sold was of or above the age of 18 years.

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- (3) If an employee contravenes subsection (1), the employer is taken to have contravened that subsection, whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions.

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- (4) It is a defence to a prosecution against an employer for such a contravention if it is proved:

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(a) that the employer had no knowledge of the contravention, and

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(b) that the employer could not, by the exercise of due diligence, have prevented the contravention.

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- (5) An employer may be proceeded against and convicted under subsection (1) by virtue of subsection (3) whether or not the employee has been proceeded against or convicted under subsection (1).

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- (6) The regulations may provide that this section does not apply to or in relation to any specified class or description of spray paint can.

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- (7) In this section:

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spray paint can means a spray can that contains spray paint.

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Schedule 1 Amendments

[2] Section 29A Penalty notices: sections 10C, 11C and 28F	1
Omit “section 11C or 28F” wherever occurring.	2
Insert instead “section 10C, 11C or 28F”.	3
[3] Section 29A (6)	4
Insert “in respect of an alleged offence under section 11C” after “to a person”.	5
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