

Passed by both Houses



New South Wales

Summary Offences Amendment (Spray Paint Cans) Bill 2002

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2002*



New South Wales

Summary Offences Amendment (Spray Paint Cans) Bill 2002

Act No , 2002

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.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Summary Offences Amendment (Spray Paint Cans) Act 2002*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) A day appointed under this section must not be earlier than 6 months after the date of assent.

3 Amendment of Summary Offences Act 1988 No 25

The *Summary Offences Act 1988* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 10C

Insert after section 10B:

10C Sale of spray paint cans to persons under 18

- (1) A person who sells a spray paint can to a person under the age of 18 years is guilty of an offence.
Maximum penalty: 10 penalty units.
- (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.
- (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.
- (4) It is a defence to a prosecution against an employer for such a contravention if it is proved:
 - (a) that the employer had no knowledge of the contravention, and
 - (b) that the employer could not, by the exercise of due diligence, have prevented the contravention.
- (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).
- (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.
- (7) In this section:
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

Omit “section 11C or 28F” wherever occurring.

Insert instead “section 10C, 11C or 28F”.

[3] Section 29A (6)

Insert “in respect of an alleged offence under section 11C” after “to a person”.