



New South Wales

# Summary Offences Amendment (Display of Spray Paint Cans) Bill 2006

## 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* to require retailers who sell spray paint cans to properly secure them if they are displayed in areas to which members of the public are permitted access.

Under the new section to be inserted by the proposed Act, a spray paint can is properly secured if it is displayed:

- (a) in a locked cabinet, or
- (b) in or behind a counter so that customers cannot gain access to them without the assistance of shop staff, or
- (c) in any other manner prescribed by the regulations.

The regulations will be able to exempt certain kinds of spray paint cans from the new section and the operation of the new section will be reviewed after 2 years following the commencement of the proposed Act.

## Outline of provisions

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

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**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

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

**Clause 4** provides for the repeal of the proposed Act after it commences. Once the amendment has commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect any amendments made by that Act.

**Schedule 1** amends the *Summary Offences Act 1988* in the manner described in the above overview.

First print



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## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Summary Offences Act 1988 No 25	2
4 Repeal of Act	2
Schedule 1 Amendment	3





New South Wales

## **Summary Offences Amendment (Display of Spray Paint Cans) Bill 2006**

No. , 2006

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### **A Bill for**

An Act to amend the *Summary Offences Act 1988* to regulate the display of spray paint cans in shops.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Summary Offences Amendment (Display of Spray Paint Cans) Act 2006</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day to be appointed by proclamation.	6
<b>3 Amendment of Summary Offences Act 1988 No 25</b>	7
The <i>Summary Offences Act 1988</i> is amended as set out in Schedule 1.	8
<b>4 Repeal of Act</b>	9
(1) This Act is repealed on the day following the day on which this Act commences.	10 11
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	12 13

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## Schedule 1      Amendment

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(Section 3)

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### Section 10D

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Insert after section 10C:

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#### 10D    Unsecured display by retailers of spray paint cans

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- (1) The occupier of any shop from which spray paint cans are sold must not display any such can in any part of the shop to which members of the public are permitted access unless the can is properly secured in accordance with subsection (2).

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Maximum penalty: 10 penalty units.

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- (2) A spray paint can is properly secured if it is displayed:

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(a) in a locked cabinet, or

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(b) within or behind a counter in such a manner that members of the public are not able to gain access to the can without the assistance of the occupier or an employee or agent of the occupier, or

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(c) in any other manner prescribed by the regulations.

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- (3) 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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- (4) The Minister is to review the operation of this section as soon as possible after the period of 2 years following the date of commencement of this section.

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- (5) In this section:

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*display* includes store or keep.

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*occupier*, in relation to a shop, means:

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(a) a person who has the right to occupy the shop to the exclusion of the owner, or

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(b) the person who is the owner of the shop if there is no person with a right to occupy the shop to the exclusion of the owner.

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*sell* includes offer for sale or expose for sale.

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*shop* includes any retail premises.

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

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