



Queensland

Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006

Act No. 45 of 2006



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**An Act to amend the Criminal Code, and for other purposes
[Assented to 10 November 2006]**

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006*.

2 Commencement

Part 4 commences on a day to be fixed by proclamation.

Part 2 Amendment of Criminal Code

3 Code amended in pt 2

This part amends the Criminal Code.

4 Insertion of new s 316A

After section 316—

insert—

‘316A Unlawful drink spiking

‘(1) A person who administers, or attempts to administer, in drink a substance to another person (the *other person*) without the other person having knowledge of the substance with intent to cause the other person to be stupefied or overpowered is guilty of a crime and is liable to imprisonment for 5 years.

‘(2) If the substance is alcohol, for section 24 only, the circumstances in which the other person is taken to have knowledge of the alcohol include where the other person

would not object to the administration of the alcohol if the other person had actual knowledge of it.

- ‘(3) The following matters are immaterial—
- (a) whether the lack of knowledge of the substance is lack of knowledge of the presence at all of the substance or of the particular quantity of the substance;
 - (b) whether the substance is capable of having the effect intended;
 - (c) whether a particular person is intended to be the person to whom the substance is administered or attempted to be administered.
- ‘(4) A reference to causing the other person to be stupefied or overpowered is—
- (a) a reference to causing the other person to be stupefied or overpowered in circumstances where the other person is not intending to be stupefied or overpowered at all; or
 - (b) a reference to causing the other person to be further stupefied or overpowered in circumstances where the other person is not intending to be further stupefied or overpowered at all or to the extent intended by the person who administers, or attempts to administer, the substance.
- ‘(5) This section does not apply to an act lawfully done in the course of the practice of a health professional, the carrying out of a function under an Act or the performance of the responsibilities of a parent or carer.
- ‘(6) In relation to an attempt to administer a substance, for this section and section 4, attempt includes adding a substance to drink in preparation for the administration of the substance.
- ‘(7) In this section—
- adding a substance**, to drink, includes, without limiting section 7, the following—
- (a) cause to be added to drink;
 - (b) substitute drink with other drink containing the substance;

- (c) take any step to provide drink containing the substance instead of other drink.

circumstances, where the other person is not intending to be stupefied or overpowered, includes any circumstance of timing, place, condition, or way of stupefaction or overpowering.

dangerous drug see the *Drugs Misuse Act 1986*, section 4.

drink includes water, beverage, or other liquid, intended or prepared for human consumption.

health professional has the meaning given by the *Health Services Act 1991*, section 60.

stupefied or overpowered includes—

- (a) a state of intoxication caused by alcohol, a drug or another substance; and
- (b) behavioural change caused by a dangerous drug, whether or not the mind is otherwise affected.¹

5 Amendment of s 552B (Charges of indictable offences that may be dealt with summarily)

Section 552B(1)—

insert—

‘(ia) an offence against section 316A;¹’.

Part 3 Amendment of Corrective Services Act 2006

6 Act amended in pt 3

This part amends the *Corrective Services Act 2006*.

¹ Section 316A (Unlawful drink spiking)

7 Amendment of s 82 (Leave for other particular prisoners)

Section 82(1)—

insert—

‘(e) a prisoner detained, other than as mentioned in paragraph (d), for a sexual offence.’.

8 Insertion of new ch 7A

After chapter 7—

insert—

‘Chapter 7A Transitional provisions for Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006

‘478A Previous expectations of sexual offenders about leave of absence

‘(1) This section applies to a prisoner sentenced for a sexual offence committed before the commencement of this section (the *commencement*), whether or not the prisoner was sentenced for the offence after the commencement.

‘(2) If, before the commencement, the prisoner had an expectation to be granted prohibited leave after the commencement, it is extinguished.

‘(3) An application for prohibited leave made by the prisoner, but not decided, before the commencement is of no effect.

‘(4) If this section is inconsistent with section 473, this section prevails to the extent of the inconsistency.

‘(5) In this section—

expectation includes right, privilege, entitlement and eligibility.

prohibited leave means leave of absence other than compassionate leave or health leave.

‘478B Previous expectations of sexual offenders about resettlement leave

- ‘(1) This section applies to a prisoner to whom section 478A(1) applies if—
- (a) the prisoner was granted resettlement leave before the commencement of section 82(1)(e) (the *commencement*); and
 - (b) the chief executive cancels the operation of the order for the prisoner’s resettlement leave under section 85(2) because the Queensland board suspended or cancelled the prisoner’s resettlement leave program, whether before or after the commencement.
- ‘(2) The pre-amended Act applies for the purpose of the following—
- (a) section 80;
 - (b) an amendment of the resettlement leave program;
 - (c) an application made under the *Judicial Review Act 1991* in relation to the Queensland board’s decision to suspend or cancel the resettlement leave program.
- ‘(3) If the Queensland board, whether before or after the commencement, changes its decision to suspend or cancel its approval of the resettlement leave program for the prisoner, the chief executive must act under section 74 to give effect to the changed decision as if section 9 of the amending Act had not been enacted.
- ‘(4) If the Queensland board, whether before or after the commencement approves a resettlement leave program for the prisoner following an order made under the *Judicial Review Act 1991*, section 30, the chief executive must act under section 74 in relation to the approved resettlement leave program as if section 9 of the amending Act had not been enacted.
- ‘(5) If, in accordance with subsection (3) or (4), the chief executive grants the prisoner resettlement leave, the pre-amended Act applies to the prisoner for the resettlement leave.

