

# **Criminal Code (Drink Spiking) and Other Acts Amendment Bill 2006**

## **Amendments agreed to during Consideration**

### **1 Clause 4—**

At page 4, line 14 to page 6, line 8—

*omit, 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

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- (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.’

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