

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Drugs of Dependence (Syringe Vending Machines) Amendment Bill 2004

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(As presented)

(Minister for Health)

Drugs of Dependence (Syringe Vending Machines) Amendment Bill 2004

A Bill for

An Act to amend the *Drugs of Dependence Act 1989* in relation to syringe vending machines, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2004 044B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**

2 This Act is the *Drugs of Dependence (Syringe Vending Machines)*
3 *Amendment Bill 2004.*

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Drugs of Dependence Act 1989.*

10 **4 New division 7.1 heading**

11 *insert*

12 **Division 7.1 Supply of syringes by approved**
13 **people**

14 **5 Section 85**

15 *omit everything before*

16 *approval*

17 *substitute*

18 **85 Definitions for div 7.1**

19 In this division:

6 Section 93 heading

substitute

93 Approval—no liability for ancillary offences**7 Section 93**

omit

a provision in the *Crimes Act 1900*, part 9

substitute

the Criminal Code, part 2.4 (Extensions of criminal responsibility)

8 New division 7.2

after section 94, insert

Division 7.2 Supply of syringes by vending machine**94A Definitions for div 7.2**

In this division:

vending machine means any machine or mechanical device used or able to be used for selling or supplying syringes without the personal manipulation or attention of the seller or supplier, or the seller's or supplier's employee or agent, at the time of the sale or supply.

vending machine approval means an approval under section 94D.

approved person means a person who holds a current vending machine approval.

1 **94B Application for vending machine approval**

2 A person may apply in writing to the chief health officer for
3 approval to supply syringes by way of vending machine.

4 *Note* If a form is approved under s 205 for this provision, the form must be
5 used.

6 **94C Further information for vending machine approval**
7 **application**

8 (1) The chief health officer may, by written notice given to the
9 applicant, require the applicant to give the chief health officer
10 further stated information or a document that the chief health officer
11 reasonably needs to decide the application.

12 (2) If the applicant fails to comply with a requirement under
13 subsection (1), the chief health officer may refuse to consider the
14 application further.

15 **94D Decision about vending machine approval application**

16 (1) The chief health officer must—

17 (a) give the applicant approval to supply syringes by way of
18 vending machine; or

19 (b) refuse to give the approval.

20 (2) In deciding the application, the chief health officer must consider—

21 (a) the public interest, including the desirability of preventing the
22 spread of disease; and

23 (b) the existing availability of syringes.

24 (3) Subsection (2) does not limit the matters that the chief health officer
25 may consider.

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- 1 (4) A vending machine approval must be given in writing and must
2 state—
- 3 (a) the full name and address of the person to whom the approval
4 is given; and
- 5 (b) the period for which the approval is given.

6 **94E Vending machine approval—conditions**

- 7 (1) A vending machine approval is subject to the conditions stated in
8 the approval.
- 9 (2) The conditions must include requirements relating to—
- 10 (a) the number of vending machines that may be installed under
11 the approval; and
- 12 (b) where each machine is to be located; and
- 13 (c) the syringes that may be supplied from the machines; and
- 14 (d) maintenance of the machines.
- 15 (3) The conditions may include any other requirements the chief health
16 officer considers appropriate.

17 **Examples of other requirements**

- 18 1 information to be displayed or available at the machine
- 19 2 frequency of inspection
- 20 3 keeping of records

21 *Note* An example is part of the Act, is not exhaustive and may extend, but
22 does not limit, the meaning of the provision in which it appears (see
23 Legislation Act, s 126 and s 132).

24 **94F Vending machine approval—surrender**

- 25 (1) An approved person may surrender his or her vending machine
26 approval by giving written notice of surrender to the chief health
27 officer.

- 1 (2) The surrender of an approval takes effect on—
2 (a) the day, and, the time on that day, the notice of surrender is
3 given to the chief health officer; or
4 (b) if a later date of effect is stated in the notice—that date.

5 **94G Vending machine approval—cancellation**

- 6 (1) The chief health officer may cancel a person’s vending machine
7 approval if the chief health officer believes, on reasonable grounds,
8 that the person has contravened a condition of the approval.
9 (2) The cancellation of a vending machine approval takes effect on the
10 day the notice of the cancellation is given under section 198A.

11 **94H Vending machine approval—return on surrender or**
12 **cancellation**

- 13 (1) A person commits an offence if—
14 (a) the person’s vending machine approval is surrendered or
15 cancelled; and
16 (b) the person fails to take all reasonable steps to return the
17 approval to the chief health officer as soon as practicable (but
18 within 7 days) after the day the surrender or cancellation takes
19 effect.

20 Maximum penalty: 20 penalty units.

- 21 (2) An offence against this section is a strict liability offence.

22 **94I Vending machine approval—no liability for ancillary**
23 **offences**

- 24 (1) An approved person, or someone acting for an approved person,
25 does not commit an offence under or because of the Criminal Code,
26 part 2.4 (Extensions of criminal responsibility) only because of
27 something done by the person for the purpose of supplying syringes

1 under a vending machine approval and in accordance with the
2 conditions of the approval.

3 (2) A person who prints or publishes a notice, announcement or
4 advertisement in any form about the supply by people of syringes in
5 the circumstances mentioned in subsection (1) does not, only
6 because of that printing or publishing, commit an offence under or
7 because of the Criminal Code, part 2.4 (Extensions of criminal
8 responsibility).

9 **Part 12**

10 *substitute*

11 **Part 12** **Administrative review of** 12 **decisions**

13 **198** **Reviewable decisions and eligible people**

14 For this part—

15 (a) a decision mentioned in schedule 6 is a *reviewable decision*;
16 and

17 (b) a person mentioned in schedule 6 in relation to a reviewable
18 decision is an *eligible person* for the decision.

19 **198A** **Notice of reviewable decisions**

20 (1) If a person (the *decision-maker*) makes a reviewable decision, the
21 decision-maker must give written notice of the decision to each
22 eligible person for the decision.

23 (2) The notice must comply with the requirements of the code of
24 practice in force under the *Administrative Appeals Tribunal*
25 *Act 1989*, section 25B (1).

- 1 (3) In particular, the notice must tell the person—
- 2 (a) that the person has the right to apply to the administrative
- 3 appeals tribunal for review of the decision, and how the
- 4 application must be made; and
- 5 (b) about the options available under other Territory laws to have
- 6 the decision reviewed by a court or the ombudsman.

7 **199 Review of decisions by AAT**

8 An eligible person may apply to the administrative appeals tribunal

9 for review of a reviewable decision.

10 **10 New schedule 6**

11 *insert*

12 **Schedule 6 Reviewable decisions**

13 (see s 198)

column 1 item	column 2 decision	column 3 eligible person
1	refusing under section 6 to grant a manufacturer's licence	the applicant for the licence
2	granting under section 6 a manufacturer's licence subject to conditions, or varying under section 8 a condition specified in a manufacturer's licence	the applicant for the licence or any other person whose interests are affected by the decision

column 1 item	column 2 decision	column 3 eligible person
3	under section 9 (5) refusing to amend a manufacturer's licence	the applicant for the licence
4	cancelling under section 11 a manufacturer's licence	the applicant for the licence
5	refusing under section 20 to grant a wholesaler's licence	the applicant for the licence
6	granting under section 20 a wholesaler's licence subject to a condition specified in a wholesaler's licence	the applicant for the licence or any other person whose interests are affected by the decision
7	under section 23 (4) refusing to amend a wholesaler's licence	the applicant for the licence
8	cancelling under section 25 a wholesaler's licence	the applicant for the licence
9	refusing to grant an authorisation under division 4.1 or 4.2	a person to whom the authorisation relates
10	granting an authorisation under division 4.1 or 4.2 subject to conditions	a person to whom the authorisation relates or any other person whose interests affected by the decision

column 1 item	column 2 decision	column 3 eligible person
11	varying a term or a condition specified in an authorisation under division 4.1 or 4.2	a person to whom the authorisation relates
12	cancelling an authorisation under division 4.1 or 4.2	a person to whom the authorisation relates
13	renewing an authorisation under division 4.1 or 4.2 for a shorter period than that specified in the application for renewal	a person to whom the authorisation relates or any other person whose interests affected by the decision
14	refusing to authorise the sale of a drug of dependence to the owner, or the agent of the owner, of a ship, or the delivery of the drug of dependence to the master of a ship	a person to whom the authorisation relates
15	refusing under section 86 to grant an approval to supply syringes	the applicant for approval or any other person whose interests affected by the decision
16	granting under section 86 an approval to supply syringes subject to a condition	the applicant for approval

column 1 item	column 2 decision	column 3 eligible person
17	cancelling under section 88 an approval to supply syringes	the person who holds the approval
18	granting under section 94D a vending machine approval	the applicant for vending machine approval
19	cancelling under section 94G a vending machine approval	the applicant for vending machine approval
20	refusing under section 150 to grant an approval to conduct a treatment centre	the applicant for approval
21	granting under section 150 an approval to conduct a treatment centre subject to conditions	the applicant for approval or any other person whose interests affected by the decision
22	varying under section 152 or revoking, or refusing to vary or revoke, a condition to which an approval to conduct a treatment centre is subject	the person who holds the approval

column 1 item	column 2 decision	column 3 eligible person
23	cancelling under section 154 an approval to conduct a treatment centre	the person who holds the approval
24	refusing under section 155 to restore an approval to conduct a treatment centre	the person who held the approval

- 1 **11 Schedules—renumbering**
- 2 *renumber schedules when Act next republished under Legislation*
- 3 *Act*
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Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 2004.
- 2 **Notification**
Notified under the Legislation Act on 2004.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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