



Australian Capital Territory

Intoxicated Persons (Care and Protection) Amendment Act 2004

A2004-54

An Act to amend the *Intoxicated Persons (Care and Protection) Act 1994*

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

2004 045B

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

1 Name of Act

This Act is the *Intoxicated Persons (Care and Protection) Amendment Act 2004*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the *Intoxicated Persons (Care and Protection) Act 1994*.

**4 Interpretation for Act
Section 3 (1), new definition of *prohibited substance***

insert

prohibited substance—see the *Drugs of Dependence Act 1989*, section 3.

5 Sections 6A to 8

substitute

6A Admission to licensed place

A carer must not admit an intoxicated person to a licensed place if the person—

- (a) refuses to give the carer the person's clothing and other possessions for safekeeping; or

- (b) refuses to undergo a search under section 6C when required to do so; or

Note Under s 6C, a search may be required before admission.

- (c) is found to be in possession of a prohibited substance.

6B Safekeeping of possessions

A carer must secure the clothing and other possessions of an intoxicated person who is admitted to a licensed place.

6C Power of carer to search intoxicated person

- (1) A carer may require an intoxicated person to undergo a frisk search in a licensed place before admitting the person.
- (2) The frisk search of an intoxicated person must, if practicable, be carried out by a person of the same sex as the intoxicated person.
- (3) If the intoxicated person is a transgender or intersex person, the person may ask that the frisk search be carried out by either a male or a female.

Note 1 For the meaning of *transgender person*, see Legislation Act, s 169A.

Note 2 For the meaning of *intersex person*, see Legislation Act, s 169B.

- (4) If the intoxicated person asks that the frisk search be carried out by a male, the person is taken, for this section, to be male.
- (5) If the intoxicated person asks that the frisk search be carried out by a female, the person is taken, for this section, to be female.
- (6) In this section:

frisk search, of an intoxicated person, means a search in which light pressure is momentarily applied to the person over the person's outer clothing without contact being made with—

- (a) the person's genital or anal areas; or
- (b) for a female—the person's breasts.

6D Leaving licensed place

- (1) An intoxicated person who is admitted to a licensed place may leave the licensed place at any time.
- (2) An intoxicated person who is admitted to a licensed place is taken to have left the licensed place if the person goes outside the licensed place unsupervised by a carer.
- (3) A carer must return an intoxicated person's possessions to the person when the person leaves the licensed place.

7 Information to be given to intoxicated person

The carer who admits an intoxicated person to a licensed place must tell the person that—

- (a) the person may leave the licensed place at any time; and
- (b) if the person goes outside the licensed place unsupervised by a carer, the person will be taken to have left the licensed place; and
- (c) the person will be given adequate opportunity to contact a responsible person or other appropriate person.

8 Contacting other people

A licensee must ensure that an intoxicated person admitted to a licensed place has adequate opportunity to contact a responsible person or other appropriate person.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 June 2004.

2 Notification

Notified under the Legislation Act on 16 August 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Intoxicated Persons (Care and Protection) Amendment Bill 2004, which was passed by the Legislative Assembly on 5 August 2004.

Clerk of the Legislative Assembly

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