

South Australia

**Controlled Substances (Sale of Equipment)
Amendment Bill 2006**

A BILL FOR

An Act to amend the *Controlled Substances Act 1984*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Controlled Substances (Sale of Equipment) Amendment Act 2006*.

5 2—Commencement

- (1) Subject to subsection (2), this Act will come into operation 4 months after the day on which it is assented to by the Governor.
- (2) If section 14 of the *Controlled Substances (Serious Drug Offences) Act 2005* has not come into operation before the day referred to in subsection (1), this Act will come into operation immediately after that section of that Act comes into operation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Controlled Substances Act 1984*

15 4—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *product* insert:

prohibited pipe means a pipe of a type declared by the regulations to be a prohibited pipe for the purposes of this Act;

(2) Section 4(1)—after the definition of *volatile solvent* insert:

water pipe means—

- 5 (a) a device capable of being used for the administration of a controlled drug by means of the drawing of smoke fumes (resulting from the heating or burning of the drug) through water or another liquid; or
- (b) a device that is apparently intended to be such a device but that is not capable of being so used because it needs an adjustment, modification or addition,

10 and includes a device known as a bong, but does not include a device of a type declared by the regulations to not be a water pipe for the purposes of this definition.

5—Substitution of heading to Part 5 Division 2 Subdivision 4

Heading to Part 5 Division 2 Subdivision 4—delete the heading to Subdivision 4 and substitute:

15 **Subdivision 4—Sale of equipment**

6—Amendment of section 33D—Sale of equipment for use in connection with consumption of controlled drugs etc

Section 33D—after its present contents (now to be designated as subsection (1)) insert:

- 20 (2) A person who—
- (a) sells a water pipe or a prohibited pipe; or
- (b) has possession of such a pipe, intending to sell it,
- is guilty of an offence.

Maximum penalty: \$2 000.

25 7—Insertion of sections 33DA and 33DB

After section 33D insert:

33DA—Sale of equipment for use in connection with cultivation of controlled plants

A person who—

- 30 (a) sells a piece of equipment for use in connection with the cultivation of controlled plants by hydroponic means; or
- (b) has possession of a piece of equipment, intending to sell it for such use,

is guilty of an offence.

35 Maximum penalty: \$2 000 or imprisonment for 2 years, or both.

33DB—Particulars of sale of hydroponic equipment to be recorded in register

- 5 (1) A person must not sell a piece of equipment for use in connection with the cultivation of plants by hydroponic means unless—
- (a) the purchaser provides evidence of identity; and
- (b) the identity of the purchaser and any other prescribed particulars relating to the purchaser or to the sale are recorded in a register maintained by the seller in accordance with any requirements notified by the Commissioner of Police by notice in the Gazette.
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Maximum penalty: \$1 250.

- 15 (2) A person who maintains a register under this section must, within 21 days after the end of each period prescribed by the regulations (the *return period*), furnish the Commissioner of Police with a statement setting out the particulars recorded in the register during the return period.

Maximum penalty: \$1 250.

- 20 (3) A person who has, or has had, access to a register maintained under this section must not divulge personal information recorded in the register except—
- (a) as authorised by or under this Act; or
- (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
- 25 (c) in connection with the administration or enforcement of this Act; or
- (d) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act.

Maximum penalty: \$5 000.

- 30 (4) Subsection (3) does not prevent a person from divulging statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

8—Insertion of sections 33GA and 33GB

After section 33G insert:

33GA—Sale of equipment to child for use in connection with consumption of controlled drugs

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- (1) A person who—
- (a) sells a piece of equipment to a child for use in connection with the smoking, consumption or administration of a controlled drug, or the preparation of such a drug for smoking, consumption or administration; or
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- (b) has possession of a piece of equipment, intending to sell it to a child for such use,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 2 years, or both.

- 5 (2) A person who—

- (a) sells a water pipe or a prohibited pipe to a child; or

- (b) has possession of such a pipe, intending to sell it to a child,

is guilty of an offence.

Maximum penalty: \$5 000.

10 **33GB—Sale of equipment to child for use in connection with cultivation of controlled plants**

A person who—

- (a) sells to a child a piece of equipment for use in connection with the cultivation of controlled plants by hydroponic means; or

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- (b) has possession of a piece of equipment, intending to sell it to a child for such use,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 2 years, or both.

20 **9—Amendment of section 44—Matters to be considered when court fixes penalty**

Section 44(da)—after "section 33F," insert:

33GA, 33GB,