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Crimes Legislation Amendment (Food and Drink Spiking) Act 2009†

No. 1 of 2009

[Assented to 10 February 2009]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is—

(a) to amend the Crimes Act 1958 to extend the offence of administering a drug with the intention of rendering a person incapable of providing resistance to an act of sexual penetration to also apply to an indecent act; and
(b) to amend the Summary Offences Act 1966 to create a new offence for the spiking of another person's food or drink.

2 Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.
PART 2—AMENDMENT OF CRIMES ACT 1958

3 Administration of drugs etc.

At the end of section 53 of the Crimes Act 1958 insert—

"(2) A person must not—

(a) administer a drug, matter or thing to a person; or

(b) cause a drug, matter or thing to be taken by a person—

with the intention of rendering that person incapable of resistance and thereby enabling himself or herself or another person to commit, or in any way be a party to the commission of, an indecent act with that person.

Penalty: Level 6 imprisonment (5 years maximum).

(3) In subsection (2), indecent act means an indecent assault in any of the circumstances referred to in section 39(2) or an indecent act in any of the circumstances referred to in section 47, 49, 51(2) or 52(2).".

PART 3—AMENDMENT OF SUMMARY OFFENCES ACT 1966

4 New Division 4B inserted

After Division 4A of Part I of the Summary Offences Act 1966 insert—

"Division 4B—Food or drink spiking

41H Food or drink spiking

(1) In this section—

give, in relation to food or drink, includes—

(a) prepare food or drink; and

(b) make food or drink available for consumption;

harm includes impair the senses or understanding of a person in a way that the person might reasonably be expected to object to in the circumstances;

impair includes further impair;

intoxicating substance includes any substance that affects a person's senses or understanding.

(2) A person—

(a) who gives another person (the victim),

or causes the victim to be given or to consume, food or drink that contains an intoxicating substance; and
(b) who—

(i) knows that the victim is not aware, or is reckless as to whether the victim is aware, that the food or drink contains the intoxicating substance; or

(ii) knows that the victim is not aware, or is reckless as to whether the victim is aware, that the food or drink contains more of an intoxicating substance than the victim would reasonably expect it to contain; and

(c) who intends the victim to be harmed by the consumption of that food or drink—is guilty of an offence and liable to a term of imprisonment not exceeding 2 years.". 
PART 4—REPEAL OF AMENDING ACT

5 Repeal of amending Act

This Act is repealed on the first anniversary of its commencement.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 28 October 2008
Legislative Council: 4 December 2008

The long title for the Bill for this Act was "A Bill for an Act to amend the Summary Offences Act 1966 to create a new offence dealing with the spiking of another person's food or drink and to extend an existing offence in the Crimes Act 1958 and for other purposes."