

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE FIREARMS LAW (1998
REVISION) TO IMPOSE RESTRICTIONS IN RESPECT OF THE
POSSESSION AND USE OF BULLET-PROOF VESTS; TO MAKE
PROVISION FOR THE IMPOSITION OF MANDATORY MINIMUM
PENALTIES UPON CONVICTION FOR CERTAIN FIREARMS
OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE FIREARMS (AMENDMENT) BILL, 2005

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Firearms Law (1998 Revision) to impose restrictions in respect of the possession and use of bullet-proof vests and to make provision for the imposition of mandatory minimum penalties upon conviction for certain firearms offences.

Clause 1 of the Bill provides the short title.

Clause 2 inserts into section 2 of the principal Law a definition of the term “bullet-proof vest”.

Clause 3 amends section 3 of the principal Law to impose restrictions on the importation and the exportation of bullet-proof vests. The clause also imposes a minimum mandatory sentence of imprisonment upon conviction for importation or exportation of specified firearms.

Clause 4 amends section 4 of the principal Law to provide that a traveller who disembarks in the Islands may be required to make, to a customs officer, an oral declaration as to whether the traveller has a bullet-proof vest in his possession.

Clause 5 amends section 5 of the principal Law to prescribe a disembarking traveller’s options in respect of a bullet-proof vest in his possession. The options include delivering the vest to a customs officer; and clause 6 amends section 6 of the principal Law to specify the period for which the customs officer may retain the vest.

Clause 7 amends section 7 of the principal Law to set out the circumstances in which a bullet-proof vest is deemed not to have been imported into the Islands.

Clause 8 amends section 8 of the principal Law to prohibit a person from selling, giving away, purchasing or accepting the gift of, a bullet-proof vest except with the prior written approval of the Commissioner of Police.

Clause 9 amends section 15 of the principal Law to prohibit a person from being in possession of a bullet-proof vest except with the prior written approval of the Commissioner of Police. Certain categories of persons are exempt from the prohibition. The clause also imposes a minimum mandatory sentence of imprisonment upon conviction for possession or use of specified firearms.

Clause 10 amends section 16 of the principal Law to prohibit a person from carrying or wearing a bullet-proof vest in a public place except with the prior

written approval of the Commissioner. A person who is in breach of the prohibition may be arrested without warrant by a constable and the bullet-proof vest impounded.

Clause 11 amends section 18 of the principal Law to make it an offence for a person to have with him a bullet-proof vest intended for use in the course of committing an offence, resisting arrest or preventing the arrest of another person. The clause also imposes a minimum mandatory sentence of imprisonment upon conviction for possession of specified firearms with intent to commit an offence.

Clauses 12 and 13 amend sections 29 and 30 of the principal Law to make provision in relation to appeals against decisions of the Commissioner of Police refusing approval, or revoking approval, in matters concerning bullet-proof vests.

Clause 14 inserts into the principal Law a new section 33A setting out the powers of a constable who suspects that a person is carrying or wearing a bullet-proof vest.

Clause 15 amends section 34 of the principal Law to make provision for the granting of search warrants to curtail the illegal possession of bullet-proof vests.

Clause 16 amends section 36 of the principal Law to enable a person to whom the Commissioner's written approval has been granted in respect of a bullet-proof vest and who is about to leave the Islands to take the vest to a police station if he does not desire to take the vest with him.

Clause 17 amends section 37 of the principal Law to make the offence of 'possession of a bullet-proof vest with intent to commit an offence', triable as a Category B offence.

Clause 18 amends section 38 of the principal Law to enable the forfeiture of a bullet-proof vest that was illegally in the possession of a convicted person.

Clause 19 amends section 41 of the principal Law to prescribe categories of persons who are exempt from the prohibitions of the principal Law in respect of the possession of bullet-proof vests.

THE FIREARMS (AMENDMENT) BILL, 2005

ARRANGEMENT OF CLAUSES

1. Short title.
2. Amendment of section 2 of the Firearms Law (1998 Revision) - definitions and interpretation.
3. Amendment of section 3 - restriction on importation or exportation of firearms.
4. Amendment of section 4 - travellers to make declaration of firearms.
5. Amendment of section 5 - traveller's option.
6. Repeal and substitution of section 6 - custody of firearms by customs officer.
7. Amendment of section 7 - firearms not to be deemed to be imported into the Islands in certain circumstances.
8. Amendment of section 8 - restrictions upon acquisition or disposal of firearms.
9. Amendment of section 15 - possession and use of firearms.
10. Amendment of section 16 - general restriction on carrying firearms in public.
11. Amendment of section 18 - restriction relating to the discharge and carriage of firearms.
12. Amendment of section 29 - appeals.
13. Amendment of section 30 - appropriate authority.
14. Insertion of section 33A - further provisions relating to production of Commissioner's written approval.
15. Amendment of section 34 - search warrants.
16. Amendment of section 36 - custody of firearms.
17. Amendment of section 37 - Category B offence.
18. Amendment of section 38 - forfeiture of firearms.
19. Amendment of section 41 - when provisions shall not apply.

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE FIREARMS LAW (1998 REVISION) TO IMPOSE RESTRICTIONS IN RESPECT OF THE POSSESSION AND USE OF BULLET-PROOF VESTS; TO MAKE PROVISION FOR THE IMPOSITION OF MANDATORY MINIMUM PENALTIES UPON CONVICTION FOR CERTAIN FIREARMS OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Firearms (Amendment) Law, 2005. Short title

2. Section 2(1) of the Firearms Law (1998 Revision), in this Law referred to as “the principal Law”, is amended by inserting the following definition in its appropriate alphabetical place - Amendment of section 2 of the Firearms Law (1998 Revision) - definitions and interpretation

 “ “bullet-proof vest” means a vest that is capable of providing protection from the penetration of bullets;”.

3. Section 3 of the principal Law is amended as follows - Amendment of section 3 - restriction on importation or exportation of firearms
 - (a) in the marginal note by inserting after the word “firearms” the words “and bullet-proof vests”;
 - (b) by inserting after subsection (1) the following subsection -

 “ (1A) No person shall import into or export from the Islands a bullet-proof vest except with the prior written approval of the Commissioner.”; and

- (c) by repealing subsection (2) and substituting the following subsections -

“ (2) Whoever contravenes subsection (1) commits an offence and is liable on conviction -

- (a) where the offence is in respect of a firearm referred to in subsection (4), to a fine of one hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years; and
- (b) where the offence is in respect of any other firearm, to a fine of one hundred thousand dollars and to imprisonment for twenty years.

(3) Whoever contravenes subsection (1A) commits an offence and is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.

(4) For the purposes of subsection (2)(a), a firearm referred to in this subsection is a machine gun, sub-machine gun, rifle, shot gun, pistol, or any lethal barrelled weapon from which any shot, bullet or other missile can be discharged.”.

Amendment of section 4
- travellers to make
declaration of firearms

4. Section 4 of the principal Law is amended as follows -

- (a) in the marginal note by inserting after the word “firearms” the words “and bullet-proof vests”;
- (b) by inserting after subsection (1) the following subsection -

“ (1A) Any traveller who disembarks in the Islands shall, on being required to do so by a customs officer, make an oral declaration stating whether the traveller has any bullet-proof vest in his possession or under his control.”;

- (c) in subsection (2) by deleting the words “contravenes subsection (1)” and substituting the words “contravenes subsection (1) or (1A)”;
- (d) in subsection (3) -
 - (i) by deleting the words “firearm or ammunition” and substituting the words “firearm, bullet-proof vest or ammunition”;
 - (ii) by deleting the words “firearms or ammunition” and substituting the words “firearms, bullet-proof vests or ammunition”.

5. Section 5 of the principal Law is amended by repealing subsection (1) and substituting the following subsection - Amendment of section 5
- traveller's option

“ (1) Every traveller who declares under section 4 that he has any firearm or bullet-proof vest in his possession shall either -

- (a) cause such firearm or bullet-proof vest to be retained upon the vessel or aircraft upon which he arrived into the Islands until after such vessel or aircraft departs from the Islands; or
- (b) deliver such firearm or bullet-proof vest to a customs officer in a sealed packet to be dealt with in accordance with the provisions of section 6,

unless the traveller is the holder of a permit under section 19, or he has the written approval of the Commissioner under section 3(1A), authorising the importation of such firearm or bullet-proof vest into the Islands.”.

6. Section 6 of the principal Law is repealed and the following section substituted - Repeal and substitution
of section 6 - custody of
firearms by customs
officer

“Custody of firearms and
bullet-proof vests by
customs officer

6. Every firearm and bullet-proof vest received by any officer of Customs under paragraph (b) of section 5(1) shall be retained in the sealed packet in which it is received until either -

- (a) the traveller from whom it was received produces to a customs officer a permit, or the Commissioner's written approval, authorising the importation of such firearm or bullet-proof vest into the Islands and pays the appropriate duty on such firearm or bullet-proof vest, in which event it shall be delivered to the traveller; or
- (b) such traveller gives not less than seven days' notice in writing to the Collector of Customs specifying some port at which he intends to embark for some place outside the Islands and the date, time and vessel upon which he intends so to embark, in which event the sealed packet containing such firearm or bullet-proof vest shall be delivered to the traveller immediately before he so embarks.”.

- Amendment of section 7
- firearms not to be
deemed to be imported
into the Islands in
certain circumstances
7. Section 7 of the principal Law is amended as follows -
- (a) in the marginal note by inserting after the word “Firearms” the words “and bullet-proof vests”; and
 - (b) by inserting after the word “firearm” wherever it appears the words “or bullet-proof vest”.
- Amendment of section 8
- restrictions upon
acquisition or disposal
of firearms
8. Section 8 of the principal Law is amended as follows -
- (a) in the marginal note by inserting after the word “firearms” the words “and bullet-proof vests”; and
 - (b) by inserting after subsection (5) the following subsection -
 - “ (5A) No person shall sell, give away, purchase or accept the gift of, a bullet-proof vest except with the prior written approval of the Commissioner.”.
- Amendment of section 15 - possession and use
of firearms
9. Section 15 of the principal Law is amended as follows -
- (a) in the marginal note by inserting after the word “firearms” the words “and bullet-proof vests”; and
 - (b) by repealing subsection (3) and substituting the following subsections -
 - “ (3) Subject to subsection (4), no person shall be in possession of a bullet-proof vest except with the prior written approval of the Commissioner.
 - (4) Subsection (3) shall not apply to -
 - (a) any person who comes into possession of a bullet-proof vest in the capacity of executor or administrator of the estate of any deceased person or Trustee in Bankruptcy or liquidator of any insolvent person or of any company in liquidation, during the period of thirty days after the day upon which he came into possession of such bullet-proof vest;
 - (b) any servant or agent of any of the persons referred to in paragraph (a) in respect of a bullet-proof vest entrusted to him for delivery to the owner thereof in accordance with this Law; or
 - (c) any constable or customs officer in respect of his possession of a bullet-proof vest which came into his possession pursuant to this Law during such period as such bullet-proof vest is so retained by him.

(5) Whoever contravenes this section commits an offence and is liable on conviction -

- (a) where the offence is in respect of a firearm referred to in subsection (6), to a fine of one hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years; and
- (b) where the offence is in respect of any other firearm or any bullet-proof vest, to a fine of one hundred thousand dollars and to imprisonment for twenty years.

(6) For the purposes of subsection (5)(a), a firearm referred to in this subsection is a machine gun, sub-machine gun, rifle, shot gun, pistol, or any lethal barrelled weapon from which any shot, bullet or other missile can be discharged.”.

10. Section 16 of the principal Law is amended as follows -

Amendment of section 16 - general restriction on carrying firearms in public

- (a) in the marginal note by inserting after the word “firearms” the words “and wearing bullet-proof vests”;
- (b) by inserting after subsection (1) the following subsection -
“ (1A) No person shall carry or wear a bullet-proof vest in any public place except with the prior written approval of the Commissioner.”;
- (c) by repealing subsection (2) and substituting the following subsection -
“ (2) Any person found carrying a firearm, or carrying or wearing a bullet-proof vest, in any public place in contravention of subsection (1) or (1A) may be arrested without warrant by any constable and such firearm or bullet-proof vest may be impounded.”; and
- (d) in subsection (3) by repealing the words “contravenes subsection (1)” and substituting the words “contravenes subsection (1) or (1A)”.

11. Section 18 of the principal Law is amended as follows -

Amendment of section 18 - restriction relating to the discharge and carriage of firearms

- (a) in the marginal note by inserting after the word “firearms” the words “and the wearing of bullet-proof vests”;
- (b) by repealing subsection (6) and substituting the following subsection -

“ (6) Whoever has with him a firearm or imitation firearm with intent to commit an offence, to resist arrest or to prevent the arrest of another person, in either case while he has the firearm or imitation firearm with him, is guilty of an offence and liable on conviction -

- (a) where the offence is in respect of a firearm referred to in subsection (17), to a fine of one hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years; and
- (b) where the offence is in respect of any other firearm or any bullet-proof vest, to a fine of one hundred thousand dollars and to imprisonment for twenty years.”;

(c) by inserting after subsection (6) the following subsection -

“ (6A) Whoever has with him a bullet-proof vest intended for use in the course of committing an offence, resisting arrest or preventing the arrest of another person, is guilty of an offence and liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.”;

(d) in subsection (7) by deleting the words “proof that the accused had a firearm or imitation firearm” and substituting the words “or (6A) proof that the accused had a firearm, imitation firearm or bullet-proof vest”;

(e) in subsection (9) by inserting after the word “firearm” the words “or bullet-proof vest”;

(f) in subsection (10) -

- (i) by deleting the words “a firearm” wherever they appear and substituting the words “a bullet-proof vest or a firearm”; and
- (ii) by deleting the words “the firearm” wherever they appear and substituting the words “the bullet-proof vest, the firearm”;

(g) in subsections (11) and (12), respectively, by inserting after the word “firearm” the words “or bullet-proof vest”;

(h) in subsection (15) by inserting after the word “firearm” the words “, bullet-proof vest”; and

(i) by inserting after subsection (16) the following subsection -

“ (17) For the purposes of subsection (6)(a), a firearm referred to in this subsection is a machine gun, sub-machine gun,

rifle, shot gun, pistol, or any lethal barrelled weapon from which any shot, bullet or other missile can be discharged.”.

12. Section 29 of the principal Law is amended as follows -

Amendment of section 29 - appeals

- (a) in subsection (1) by inserting after paragraph (a) the following paragraphs -
 - “(aa) refusing to grant approval in a matter relating to a bullet-proof vest;
 - (ab) revoking any approval granted in a matter relating to a bullet-proof vest;” and
- (b) in subsection (5) by inserting after the words “permit relates” the following words -
 - “; and, in a matter relating to a bullet-proof vest, “aggrieved party” means -
 - (a) the person applying for the Commissioner’s approval under any provision of this Law, in respect of an appeal against the Commissioner’s refusal to grant the approval; and
 - (b) the person to whom the Commissioner’s approval has been granted under any provision of this Law, in respect of an appeal against the Commissioner’s amendment or revocation of the approval”.

13. Section 30 of the principal Law is amended by inserting after subsection (1) the following subsection -

Amendment of section 30 - appropriate authority

“ (1A) The appropriate authority for the grant, amendment or revocation of approval in a matter relating to a bullet-proof vest, shall be the Commissioner.”.

14. The principal Law is amended by inserting after section 33 the following section -

Insertion of section 33A - further provisions relating to production of Commissioner’s written approval

“Further provisions relating to production of Commissioner’s written approval

- 33A.(1) Where any constable suspects that any person is carrying or wearing a bullet-proof vest he may -
- (a) ask such person if he is carrying or wearing a bullet-proof vest; and
 - (b) if such person admits that he is carrying or wearing a bullet-proof vest, require such person to produce such bullet-proof vest and

the Commissioner's written approval in respect thereof.

(2) If any person denies that he is carrying or wearing a bullet-proof vest and the constable continues to suspect that he is carrying or wearing a bullet-proof vest, the constable may search that person for the purpose of seizing the suspected bullet-proof vest and may detain him for the purpose of searching him.

(3) Whoever, on being required so to do under this section, fails to produce a bullet-proof vest which he admits he is carrying or wearing or to produce the Commissioner's written approval in relation to such bullet-proof vest or refuses to submit to being searched under this section is guilty of an offence and liable on summary conviction to a fine of two hundred dollars or to imprisonment for six months."

Amendment of section
34 - search warrants

15. Section 34 of the principal Law is amended as follows -

- (a) by inserting after the word "firearm" wherever it appears the words "or bullet-proof vest"; and
- (b) by inserting after the word "firearms" the words "or bullet-proof vest".

Amendment of section
36 - custody of firearms

16. Section 36 of the principal Law is amended as follows -

- (a) by inserting after subsection (2) the following subsections -

" (2A) Whoever comes into possession of any bullet-proof vest in the circumstances specified in paragraph (a) of section 15(4) shall, within thirty days of coming into possession of such bullet-proof vest, unless he has obtained the Commissioner's written approval in respect of such bullet-proof vest, within such period deliver such bullet-proof vest to the officer in charge of the Police Station nearest to the place at which he came into possession of such bullet-proof vest together with a written statement as to the date on which and the circumstances in which he came into possession of such bullet-proof vest.

(2B) Where a person to whom the Commissioner's written approval has been granted in respect of a bullet-proof vest is about to leave the Islands and does not desire to take with him the bullet-proof vest to which the approval relates, he shall, before leaving the Islands, deliver such bullet-proof vest to the officer in

charge of the Police Station nearest to the place at which he is ordinarily resident.”;

- (b) in subsection (3) by deleting the words “contravenes subsection (1) or (2)” and substituting the words “contravenes subsection (1), (2), (2A) or (2B)”;
- (c) by repealing subsection (4) and substituting the following subsection-

“ (4) Every firearm or bullet-proof vest received at any Police Station under this section shall -

- (a) on the production by any person of a Firearm User’s (Restricted) Licence granted to him in relation to such firearm either before or after the date on which such firearm was received at such Police Station, be delivered to such person;
- (b) on the production by any person of the Commissioner’s written approval granted to him in relation to such bullet-proof vest either before or after the date on which such bullet-proof vest was received at such Police Station, be delivered to such person; or
- (c) if not delivered to any person in accordance with paragraphs (a) or (b) within twelve months of the date on which it was received at such Police Station, be forfeited to the Crown.”.

17. Section 37 of the principal Law is amended by deleting “18(6), 18(8)” and substituting “18(6), 18(6A), 18(8)”.

Amendment of section 37 - Category B offence

18. Section 38 of the principal Law is amended as follows -

Amendment of section 38 - forfeiture of firearms

- (a) in paragraph (a) by inserting after the word “firearm” the words “or bullet-proof vest”;
- (b) by inserting after paragraph (a) the following paragraph -

“(aa) the possession or use of any bullet-proof vest in respect of which he has not obtained the Commissioner’s written approval under this Law;”;
- (c) by inserting after the words “such firearm” wherever they appear the words “or bullet-proof vest”.

19. Section 41 of the principal Law is amended by inserting after the word “firearm” wherever it appears in paragraphs (a), (b), (d), and (e), the words “or bullet-proof vest”.

Amendment of section 41 - when provisions shall not apply

Passed by the Legislative Assembly the day of , 2005.

Speaker.

Clerk of the Legislative Assembly.