

CAYMAN ISLANDS



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THE FIREARMS (AMENDMENT) LAW, 2005

(LAW 17 OF 2005)

THE FIREARMS (AMENDMENT) LAW, 2005

ARRANGEMENT OF SECTIONS

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2. Amendment of section 2 of the Firearms Law (1998 Revision) - definitions and interpretation.
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20. Amendment of section 41 - when provisions shall not apply.
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CAYMAN ISLANDS

Law 17 of 2005.

I Assent

George McCarthy

Acting Governor.

8 November, 2005

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 a provision of 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”;

- (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. The principal Law is amended by inserting after section 37 the following section -

Insertion of section 37A - restriction on eligibility for release on licence

“Restriction on eligibility for release on licence

37A. Notwithstanding any provision in any other Law, a person -

- (a) convicted of an offence under section 3(1) and sentenced pursuant to section 3(2)(a);
- (b) convicted of an offence under section 15(1) and sentenced pursuant to section 15(5)(a); or
- (c) convicted of an offence under section 18(6) and sentenced pursuant to section 18(6)(a),

shall not be eligible to be released on licence.”.

Amendment of section
38 - forfeiture of
firearms

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

- (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”.

Amendment of section
41 - when provisions
shall not apply

20. 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”.

Savings and transitional
provisions

21. (1) Where -

- (a) prior to the date of commencement of this Law, an accused person is convicted of or pleads guilty to an offence (irrespective of when the offence was committed); and
- (b) at the date of commencement of this Law, no judgment or sentence has been passed upon him in respect of the offence,

the accused person shall, for the purpose of the judgment or sentence, be dealt with in all respects as if the new Law had not come into force.

(2) Where on or after the date of commencement of this Law, an accused person is convicted of or pleads guilty to an offence (irrespective of when the offence was committed), the accused person shall, for the purpose of judgment or sentence in respect of the offence, be dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.

(3) In this section -

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the 14th day of October, 2005.

EDNA MOYLE

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.