

CAYMAN ISLANDS



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THE PENAL CODE (AMENDMENT) LAW, 2005

(LAW 23 OF 2005)

THE PENAL CODE (AMENDMENT) LAW, 2005

ARRANGEMENT OF SECTIONS

1. Short title.
2. Amendment of section 78 of the Penal Code (2005 Revision) - definition of prohibited and offensive weapons.
3. Amendment of section 80 – restriction on carrying offensive weapons.
4. Insertion of section 80A - restriction on carrying restricted weapons by night.
5. Amendment of sections 81 and 82 – power of search; forfeiture, etc.
6. Insertion of Part VIIA - Anti-Gang Provisions.

CAYMAN ISLANDS

Law 23 of 2005.

I Assent

George McCarthy

Acting Governor.

8 November, 2005

**A LAW TO AMEND THE PENAL CODE (2005 REVISION) TO
OUTLAW THE CARRYING OF WEAPONS AT NIGHT; TO PROHIBIT
MEMBERSHIP IN GANGS; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

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

 2. The Penal Code (2005 Revision), in this Law referred to as “the principal Law”, is amended in section 78 as follows -
 - (a) by deleting the marginal note and substituting the following marginal note -

“Definition of prohibited, offensive and restricted weapons”; and
 - (b) by inserting after the definition of “prohibited weapon” the following definition -

“restricted weapon” means -

 - (a) a machete or knife;
 - (b) a softball bat, baseball bat, cricket bat or any similar bat; or
- Amendment of section 78 of the Penal Code (2005 Revision) - definition of prohibited and offensive weapons

- (c) an object similar to an object referred to in paragraph (a) or (b), made or adapted for use for causing injury to any person or capable of being used for causing injury to any person.”.

Amendment of section 80 – restriction on carrying offensive weapons

3. The principal Law is amended in section 80 by deleting the words “a fine of two thousand dollars and to imprisonment for two years” and substituting the words “a fine of five thousand dollars and to imprisonment for four years”.

Insertion of section 80A - restriction on carrying restricted weapons by night

4. The principal Law is amended by inserting after section 80 the following section -

“Restriction on carrying restricted weapons by night

80A. (1) Subject to subsection (2), a person who without any lawful excuse (the proof of which excuse shall be on such person) has or carries any restricted weapon, not being a prohibited weapon, by night -

- (a) in a cinema, theatre or other place of public assembly;
- (b) in a club, restaurant, recreation hall or bar;
- (c) in a place of public entertainment of any kind or a place of general resort, admission to which is obtained by payment or to which the public have access;
- (d) in or upon the car park, parking lot or precincts of a place referred to in paragraph (a), (b) or (c); or
- (e) in or on a vehicle that is in or upon the car park, parking lot or precincts of a place referred to in paragraph (a), (b) or (c),

is guilty of an offence and liable to a fine of five thousand dollars and to imprisonment for four years.

(2) If the restricted weapon is a machete or knife, no person shall be deemed to have committed an offence against this section if he shall prove that he had or was carrying such machete or knife for some lawful purpose for which such machete or knife was necessary.”.

Amendment of sections 81 and 82 – power of search; forfeiture, etc.

5. The principal Law is amended in sections 81 and 82(1), respectively, by deleting the words “offensive or prohibited weapon” and substituting the words “offensive, restricted or prohibited weapon”.

6. The principal Law is amended by inserting after Part VII the following Part - Insertion of Part VIIA -
Anti-Gang Provisions

“PART VIIA - Anti-Gang Provisions

Definition of “gang”

227A. In this Part -

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

“firearm” has the meaning assigned to that expression in the Firearms Law (1998 Revision);

“gang” means any group, association or other body consisting of three or more persons, whether formally or informally organised -

- (a) having as one of its primary activities the commission of an indictable offence, or an offence under the Misuse of Drugs Law (2000 Revision), for which the maximum punishment is imprisonment for three years or more; and
- (b) any or all of the members of which engage in or have, within the preceding three years, engaged in the commission of a series of such offences; and

“indictable offence” means an offence triable upon indictment under this or any other Law.

Possession of bullet-proof vest or firearm in association with gang

227B. A person who, without lawful excuse, the proof of which lies on the person, has in his possession or under his care or control a bullet-proof vest or firearm for the use or benefit of, at the direction of, or in association with, a gang, is guilty of an offence and liable -

- (a) where the offence is in respect of a bullet-proof vest, to a fine of one hundred thousand dollars and to imprisonment for twenty years; and
- (b) where the offence is in respect of a firearm, to a fine of one hundred thousand dollars

and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years.

Gang membership

227C.(1) A person who -

- (a) is a member of a gang; or
- (b) participates in or contributes to the activities of a gang knowing that any or all of the members of the gang engage in or have, within the preceding three years, engaged in the commission of a series of indictable offences, or offences under the Misuse of Drugs Law (2000 Revision), for each of which the maximum punishment is imprisonment for three years or more,

is guilty of an offence and liable to a fine of five hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years.

(2) For the purposes of this section, subject to evidence to the contrary, persons shall be deemed to be in the same group, association or other body, whether formally or informally organised, where those persons -

- (a) have similar tattoos or other body markings;
- (b) have a similar style of dress; or
- (c) use similar symbols, signs, codes or mannerisms as a means of identifying themselves with the group, association or other body.

Participation in criminal activity in association with gang

227D. A person who -

- (a) participates in or contributes to the activities of a gang knowing that any or all of the members of the gang engage in or have, within the preceding three years, engaged in the commission of a series of indictable offences, or offences under the Misuse of Drugs Law (2000 Revision), for each of which the maximum punishment is imprisonment for three years or more; and
- (b) is a party to the commission of an indictable offence, or an offence under the Misuse of

Drugs Law (2000 Revision), for the benefit of, at the direction of, or in association with, the gang, for which the maximum punishment is imprisonment for three years or more,

is guilty of an offence and liable to a fine of five hundred thousand dollars and to imprisonment for twenty years, subject to a minimum term of imprisonment of ten years.

Prohibition on gang member's eligibility for release on licence

227E. Notwithstanding any provision in any other Law, a person convicted of an offence under section 227B, 227C or 227D shall not be eligible for release on licence.”.

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

EDNA MOYLE

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.