

BILL

No. 6

An Act respecting the Safety of Public Urban Spaces and regulating the Possession, Transportation and Storage of Items that may be Used as Street Weapons

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(Assented to)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART 1 Preliminary Matters

Short title

1-1 This Act may be cited as *The Safe Public Spaces (Street Weapons) Act*.

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Definitions**1-2** In this Act:

“**body armour**” means a garment or item designed, intended or adapted for the purpose of protecting the body from an item used or adapted to stab, pierce, puncture or otherwise wound the body, but does not include safety equipment designed, intended for use and worn by an individual for sports or recreation purposes;

“**chief**” means the chief of police for the police service at which a street weapon is impounded, and includes a delegate of the chief;

“**Crown**” means the Crown in right of Saskatchewan;

“**First Nation**” means a band as defined in the *Indian Act* (Canada) and includes the council of a band;

“**knife**” does not include the following:

- (a) an article that is worn for religious purposes and that is not intended for use as a weapon;
- (b) a knife or other bladed instrument where the total length of the blade is less than:
 - (i) 30 centimetres; or
 - (ii) any other length set by a municipal bylaw or law of a First Nation for the purposes of this Act;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**municipality**”:

- (a) means a city, town, village, resort village, rural municipality or northern municipality; and
- (b) includes the Saskatchewan portion of the City of Lloydminster;

“**police officer**” means:

- (a) a member of a police service; or
- (b) any other prescribed peace officer;

“**police service**” means, unless the context otherwise requires:

- (a) a police service as defined in *The Police Act, 1990*; or
- (b) the Royal Canadian Mounted Police;

“**prescribed**” means prescribed in the regulations;

“**private place**” means:

- (a) any of the following places that are genuinely and actually occupied as a private residence:
 - (i) a house or building or any part of a house or building;
 - (ii) a trailer, camper, mobile home, tent or any combination of them;

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- (iii) a cottage or cabin or similar construction designed for use on a seasonal basis;
- (iv) a moored vessel;
- (v) a private guest room in a hotel or motel; and

(b) in the case of a place mentioned in subclause (a)(i), (ii) or (iii), the appurtenant land or, in the case of a farm, the lands constituting the farm;

“public urban space” means any of the following:

- (a) a place or building to which the public has or is permitted to have access;
- (b) a park, playground, cinema, outdoor theatre or other place of public resort or amusement;
- (c) a highway, road, street, lane or thoroughfare;
- (d) any unoccupied land or building;
- (e) in relation to a person who enters occupied land or an occupied building without the consent of the occupant, the land or building so entered, whether or not the land or building is a private place;
- (f) a conveyance while it is at, in or on any place, building, thoroughfare or land that by virtue of this definition is a public urban place;
- (g) the common area of a condominium, apartment complex or other multi-unit dwelling;
- (h) any other prescribed place;

“street weapon” means any of the following:

- (a) a knife;
- (b) a sword;
- (c) a machete;
- (d) body armour;
- (e) an explosive device;
- (f) a wildlife control product;
- (g) any other prescribed item;

“wildlife control product” means a product designed to repel wildlife through the discharge of a liquid or other substance through a pressurized spray mechanism that:

- (a) contains capsaicin in a concentration of 0.6% or more; and
- (b) contains a total volume of liquid or other substance that exceeds 50 grams.

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Application of Act

1-3(1) Subject to subsection (2), this Act applies to the possession, transportation and storage of items that may be used as street weapons in a manner that threatens public safety in public urban spaces.

(2) This Act applies to a municipality or First Nation that opts into the application of this Act in accordance with the regulations.

Non-application of Act

1-4 This Act does not apply to the following:

- (a) any:
 - (i) officer or constable of a police service;
 - (ii) peace officer; or
 - (iii) special constable appointed pursuant to *The Police Act, 1990*;
- (b) a common carrier that, in the ordinary course of business, is transporting or storing items that may be used as street weapons;
- (c) a retailer, manufacturer or other business that, in the ordinary course of business, manufactures, sells, stores, transports or distributes items that may be used as street weapons;
- (d) a person who, in the course of that person's business, trade or profession, reasonably requires the use of items that may be used as street weapons;
- (e) an employer, employee or contractor who requires items, that may be used as street weapons, for the purposes of protecting an employee, contractor or other individual at a place of work or during the course of an employee or contractor's duties, including:
 - (i) protection against a threat posed by wildlife; and
 - (ii) training an employee or contractor on the use of the items;
- (f) a government, educational, medical or scientific institution that requires items, that may be used as street weapons, for scientific, educational, medical, training or testing purposes;
- (g) with respect to wildlife control products, an employee of the Canada Post Corporation who is:
 - (i) employed for the purpose of mail delivery; and
 - (ii) required to provide mail service in a public urban space;
- (h) a museum or similar institution that displays or uses items, that may be used as street weapons, for scientific or educational purposes;
- (i) any other prescribed person.

Municipal bylaws and First Nation laws

1-5(1) The provisions of this Act are in addition to, and not in derogation of, any municipal bylaw or law of a First Nation that deals with the possession, transportation and storage of street weapons.

(2) If there is a conflict between a provision of this Act and a provision of a municipal bylaw or law of a First Nation, the provision of the municipal bylaw or law of a First Nation prevails.

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PART 2

Possession, Transportation and Storage of Street Weapons**Street weapons prohibited in public urban space**

2-1(1) Subject to subsections (2) to (5), no person shall possess a street weapon in a public urban space.

(2) Subsection (1) does not render it unlawful for a person to possess an item that may be used as a street weapon in a private place occupied by that person.

(3) Subsection (1) does not render it unlawful for a person to possess an item that may be used as a street weapon for the purpose of transporting the item from the place at which it was lawfully obtained to a place where it may be lawfully stored or used or from that place to another place where the item may be lawfully stored or used.

(4) Subsection (1) does not render it unlawful for a person to possess a wildlife control product in a public urban space if:

(a) the person demonstrates that there was a reasonable risk of threat to the person's safety by wildlife in that public urban space at the time the person was found in possession of the wildlife control product; and

(b) the wildlife control product in the person's possession is designed to protect persons against the threat posed by that type of wildlife.

(5) Subsection (1) does not render it unlawful for a person to possess a knife in a public urban space if the person:

(a) requires the knife for the preparation of food in the public urban space; and

(b) reasonably demonstrates that the knife does not constitute a threat to the public safety.

Alteration prohibited

2-2(1) No person shall deface or alter a street weapon in any manner that conceals or renders illegible the identification or contents of the street weapon.

(2) No person shall possess a street weapon that has been defaced or altered in contravention of subsection (1).

PART 3

Seizure and Impoundment of Street Weapons**Seizure and impoundment of street weapons**

3-1(1) A police officer may seize a street weapon from a person in a public urban space if the police officer believes on reasonable grounds that the street weapon constitutes a threat to public safety.

(2) Subsection (1) applies whether or not any person is charged with an offence pursuant to this Act.

(3) A street weapon seized pursuant to subsection (1) may be impounded at the local police station or detachment of the police officer who seized the street weapon.

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Request for release

3-2(1) Subject to subsections (3) and (4), section 3-3 and the regulations, on receipt of a request pursuant to subsection (2), the chief shall direct the return of the street weapon to the owner of the street weapon.

(2) If a street weapon is impounded pursuant to section 3-1, the person from whom the street weapon was seized may make a written request to the police service at which the street weapon is impounded for the return of the street weapon:

(a) if the person is not charged with an offence pursuant to this Act respecting the seized street weapon within 30 days after the date on which it was seized, within 60 days after the date of the seizure;

(b) if the person is charged with an offence pursuant to this Act respecting the seized street weapon and the prosecution results in an acquittal:

(i) if the verdict is not appealed, within 60 days after the acquittal; or

(ii) if the verdict is appealed, and an appellate court affirms the acquittal and the matter is not subject to any further appeal, within 30 days after the appellate court's decision; or

(c) if the person is charged with an offence pursuant to this Act respecting the seized street weapon and the charge is dismissed or stayed:

(i) if the dismissal or stay is not appealed, within 60 days after the charge is dismissed or stayed; or

(ii) if the dismissal or stay is appealed, the appellate court affirms the dismissal or stay and the matter is not subject to any further appeal, within 30 days after the appellate court's decision.

(3) On application by a police officer without notice, a justice or provincial court judge may order the continued impoundment of a seized street weapon for a specified period if the justice or judge is satisfied that:

(a) the continued impoundment might reasonably be required for the purposes of an investigation, trial, inquiry or hearing pursuant to this Act or any other Act or Act of the Parliament of Canada; and

(b) it is in the interests of justice to make the order.

(4) If an order is made pursuant to subsection (3), the street weapon shall not be returned pursuant to this section except in accordance with the order.

Forfeiture

3-3(1) If a person is convicted of an offence pursuant to this Act, the justice, judge or court, as the case may be, shall also order that any street weapon seized and impounded from that person pursuant to section 3-1 is forfeited to the Crown.

(2) If a street weapon is seized and impounded pursuant to section 3-1 and a person is not charged with an offence pursuant to this Act, or the person is charged and the charge is dismissed, stayed or acquitted, the street weapon is forfeited to the Crown on the date on which the applicable application period mentioned in subsection 3-2(2) expires.

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(3) Subject to the regulations, a street weapon that is forfeited to the Crown pursuant to this section may be disposed of in any manner that the chief determines is appropriate.

PART 4
General

Warrant

4-1(1) If a justice or a provincial court judge is satisfied by information under oath or affirmation by a police officer that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found in a place or premises, or that a person required to produce or provide any record or property refuses or neglects to produce or provide that record or property, the justice or judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
 - (b) stop and search any vehicle named in the warrant;
 - (c) search and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (2) A police officer may, with a warrant issued pursuant to subsection (1):
- (a) enter at any time and search any place or premises named in the warrant;
 - (b) stop and search any vehicle named in the warrant;
 - (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the police officer finds in the place, premises or vehicle;
 - (d) require the production of and examine any record, document, property or other item that the police officer believes, on reasonable grounds, may contain information related to an offence against this Act;
 - (e) remove, for the purposes of making copies, any records examined pursuant to this section;
 - (f) seize and impound a street weapon pursuant to section 3-1; and
 - (g) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.
- (3) Subject to subsection (4), a police officer may exercise all or any of the powers mentioned in subsection (2) without a warrant if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the police officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result in:
 - (i) danger to human life or safety; or
 - (ii) the loss, removal or destruction of evidence.
- (4) A police officer shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant issued pursuant to this section.

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Impeding a police officer

4-2(1) No person shall fail to comply with the direction of a police officer pursuant to this Act to surrender a street weapon.

(2) No person shall impede a police officer acting pursuant to the authority of this Act.

Arrest without warrant

4-3 A police officer may arrest without warrant any person if the police officer believes on reasonable grounds that the person is contravening a provision of this Act.

Offence and penalty

4-4 Every person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction:

- (a) to a fine of not more than \$5,000;
- (b) to imprisonment for a term not exceeding one year; or
- (c) to both fine and imprisonment.

Immunity

4-5 No action or proceeding lies or shall be commenced against a police officer, chief, police service, the Crown, the minister or any other person if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations, in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

Regulations

4-6 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of the definition of “police officer”, prescribing additional categories of peace officers;
- (c) for the purposes of the definition of “public urban space”, prescribing additional places;
- (d) exempting places from the definition of “public urban space”;
- (e) for the purposes of the definition of “street weapon”, prescribing additional items as street weapons;
- (f) exempting any items from the definition of “street weapon”;
- (g) respecting the opting into this Act by a municipality or a First Nation pursuant to subsection 1-3(2);
- (h) for the purposes of clause 1-4(i), prescribing additional persons who are exempt from this Act;
- (i) respecting a request for the return of a street weapon pursuant to section 3-2;

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- (j) respecting the forfeiture of street weapons pursuant to section 3-3;
- (k) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (l) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART 5
Repeal and Transitional

RRS c W-13.12 Reg 6 repealed

5-1 *The Wildlife Control (Capsaicin) Products Regulations* are repealed.

Transitional

5-2(1) In this section:

“former regulations” means *The Wildlife Control (Capsaicin) Products Regulations* as they existed on the day before the transition date;

“transition date” means the date on which section 5-1 of *The Safe Public Spaces (Street Weapons) Act* comes into force;

“The Wildlife Act, 1998” means *The Wildlife Act, 1998* as it existed on the day before the transition date.

(2) Notwithstanding the repeal of the former regulations:

(a) all offences pursuant to the former regulations that were committed before the transition date are to be prosecuted in accordance with the former regulations and *The Wildlife Act, 1998* and, notwithstanding that Act, are liable to a fine of not more than \$5,000;

(b) all proceedings pursuant to *The Wildlife Act, 1998* with respect to a matter under the former regulations that occurred before the transition date are to be commenced or continued pursuant to the former regulations and *The Wildlife Act, 1998*; and

(c) all rights of appeal with respect to a matter under the former regulations that occurred before the transition date are continued until:

- (i) the expiry of the applicable appeal period; or
- (ii) the final determination of the appeal.

PART 6
Coming into Force

Coming into force

6-1 This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION

Thirtieth Legislature

SASKATCHEWAN

BILL

No. 6

An Act respecting the Safety of Public Urban Spaces
and regulating the Possession, Transportation and
Storage of Items that may be Used as Street Weapons

Received and read the

First time

Second time

Third time

And passed

Honourable Tim McLeod
