

WEAPONS, FIRE ARMS OFFENCES



In Victoria, the law strictly regulates the possession, use, purchase, manufacture and supply of firearms and associated components and prohibited weapons. It imposes harsh penalties on persons charged under relevant legislation.

Firearms

Many rules govern the possession and use of firearms in Victoria, which, if broken, can result in being charged.

It is an offence in Victoria for a non-prohibited person to possess, carry or use a firearm unless you have a licence under the Firearms Act 1996 and the firearms in your possession are legally registered.

Firearm offences include:

- Possessing a Firearm without a Proper License
- Possessing an Unregistered Firearm
- Possessing Cartridge Ammunition
- Carrying or Use a Firearm in a Prohibited Place
- Storing a Firearm or Ammunition in an Insecure Manner
- Prohibited Weapons

Prohibited weapons are those weapons considered

inappropriate for general possession listed in the Control of Weapons Act (1990). Special licenses may be obtained to possess these weapons.

These include (but are not limited to):

- Taser guns;
- Martial arts weapons such as bo-chucks and nunchaku;
- Daggers and flick knives;
- Crossbows;
- Non-metal or ceramic knives;
- Throwing blades;
- Noxious discharge devices, such as capsicum spray;
- Extendable batons; and
- Body armour.

If found in possession of a prohibited weapon without a license, you may be charged with an offence under section 5 of the Control of Weapons Act (1990).

The maximum penalty for this offence is two years imprisonment or 240 penalty units.

DRUG OFFENCES

Our lawyers at David Tamanika Solicitors have extensive experience representing clients for all drug matters. We have represented a broad range of clients spanning possession for personal use to the trafficking and manufacture of drugs, including low-level transactions and the importation and trafficking of large commercial quantities.

It is an offence to traffic a drug of dependence. The dealing of drugs includes:

- Manufacturing a drug for sale
- Selling or offering to sell drugs
- Buying drugs for another party
- Exchanging Drugs

Use And Possession

The most common drug offences are possession and use of drugs of dependence. Use includes injecting, smoking, inhaling and swallowing. The Police can also charge an accused if they admit to having used a drug dependence. Possession means physically having the drug on you in your place of residence or your motor vehicle.

People who are caught growing cannabis will be charged with cultivation.

Trafficking

The cases become more serious when the accused is caught with a sufficient quantity of a drug of dependence to be deemed trafficking in that drug. Alternatively, the circumstance in which a person is caught in possession of drugs can lead the Police to conclude that the person is trafficking. Commonly these are that drugs are found in numerous deal bags, there are scales, amounts of cash and lists of monies owing by people. Texts requesting that the accused supply drugs are not helpful.

Trafficking does not only mean that an accused has sold a drug.

Purchasing From Friends

Accused persons are commonly charged with trafficking when they admit to purchasing drugs for themselves and

other friends. It is cheaper if you pool your money, but the person who buys and provides drugs to their friends has been trafficked. So has the person caught by the Police who says this is not all for me; it is for my friends too.

Amounts

If you are caught with a large quantity of drugs on you, there is a presumption in the legislation that you possess for the purpose of trafficking.

The traffickable quantity varies depending on the type of drug you are caught with.

More information on how quantities are legally defined is available in Schedule 11 of the Drugs, Poisons and Controlled Substances Act 1981 (VIC).

How serious is my case?

If you are charged with a drug-related matter, its seriousness will mainly depend on the quantity of drugs or plants seized and the length of the offending. Your defence will often depend on matters such as:

- Did you have physical control over the illicit substance?
- Did you know the substance found in your car, home, or on your property?
- Did your actions amount to trafficking as understood by the law?
- What if my case involves 'legal' drugs?

Under Australian law, using prescription and even over-the-counter drugs for illegal purposes, such as selling or using anti-depressants without a prescription, is a punishable offence. Crimes involving 'controlled substances' have similar and sometimes even the same punishments as crimes involving illicit drugs, including large fines and jail time and can lead to a permanent criminal record.

Am I likely to go to jail?

If your case progresses to Court, the Prosecution must prove beyond reasonable doubt that an offence occurred. Whether or not you are likely to go to jail depends on the seriousness of the offence you have been charged with.