

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*

Legislative Assembly Chamber, The Clerk of the Parliament.

Brisbane,

30 October 2019

In the name and on behalf of the Queen, I assent to this Bill,

Paul de Jersey

Government House,

Brisbane,

30 October 2019



Queensland

No. 35 of 2019

A BILL for

An Act to amend the Police Powers and Responsibilities Act 2000, the State Penalties Enforcement Regulation 2014 and the Summary Offences Act 2005 to address the use of dangerous attachment devices



Queensland

Summary Offences and Other Legislation Amendment Bill 2019

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2019

A Bill

for

An Act to amend the *Police Powers and Responsibilities Act 2000*, the *State Penalties Enforcement Regulation 2014* and the *Summary Offences Act 2005* to address the use of dangerous attachment devices

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Summary Offences and Other Legislation Amendment Act 2019*.

Part 2 Amendment of Police Powers and Responsibilities Act 2000

2 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

3 Amendment of s 30 (Prescribed circumstances for searching persons without warrant)

(1) Section 30—

insert—

(k) the person has something that may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

(2) Section 30—

insert—

(2) For subsection (1)(k), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—

- (a) unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

Example—

placing an obstacle, on a railway, that stops the passage of rolling stock

- (b) stops a person from entering or leaving a place of business; or
- (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

4 **Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)**

- (1) Section 32(1)—

insert—

- (p) may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.

- (2) Section 32—

insert—

- (3) For subsection (1)(p), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—

- (a) unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

Example—

placing an obstacle, on a railway, that stops the passage of rolling stock

- (b) stops a person from entering or leaving a place of business; or

[s 5]

- (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

5 Insertion of new s 53AA

After section 53A—

insert—

53AA Seizure and disposal of dangerous attachment devices

- (1) This section applies if a police officer—
 - (a) finds a dangerous attachment device; and
 - (b) reasonably suspects the dangerous attachment device has been used, or is to be used, to disrupt a relevant lawful activity.
- (2) For subsection (1)(b), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—
 - (a) unreasonably interferes with the ordinary operation of transport infrastructure; or

Example—

 - placing an obstacle, on a railway, that stops the passage of rolling stock
 - (b) stops a person from entering or leaving a place of business; or
 - (c) causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.
- (3) The police officer may do 1 or both of the following—
 - (a) deactivate or disassemble the dangerous attachment device to the extent the police officer considers reasonably necessary;

- (b) seize all or parts of the dangerous attachment device.
- (4) If the police officer exercises the power under subsection (3) to seize a dangerous attachment device or parts of a device, the device or part is taken to have been forfeited to the State immediately after the police officer seizes it.
- (5) To remove any doubt, it is declared that a police office may disassemble a dangerous attachment device and choose to seize only some of the disassembled parts.
- (6) In this section—
deactivate, a dangerous attachment device, includes to make the device safe or unusable.
transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

6 Amendment of s 720 (Application of div 7)

Section 720(2)—

omit, insert—

- (2) This division applies to a forfeited thing only after all proceedings relating to the offence or suspected offence for which the thing was forfeited are finally decided.
- (3) However, the delay of the application of this division under subsection (2) does not apply to the following things—
 - (a) a dangerous attachment device forfeited under section 53AA;
 - (b) a thing forfeited under division 6.

6A Insertion of new s 808B

After section 808A—

[s 6A]

insert—

808B Annual report about dangerous attachment devices

- (1) As soon as practicable after the end of each financial year, the commissioner must prepare and give to the Minister a report about the use by police officers of particular powers relating to dangerous attachment devices.
- (2) The report must include the following information for the financial year to which it relates—
 - (a) when and where a person was searched under section 29 in the circumstances mentioned in section 30(1)(k);
 - (b) when and where a vehicle was searched under section 31 in the circumstances mentioned in section 32(1)(p);
 - (c) if any thing was seized in a search mentioned in paragraph (a) or (b)—
 - (i) when and where the thing was seized; and
 - (ii) a description of the thing; and
 - (iii) whether the thing was returned, disposed of or destroyed.
- (3) The report must not include any information identifying, or that is likely to lead to the identification of, a person who was the subject of an exercise of a power mentioned in subsection (2).
- (4) Within 14 sitting days after receiving the report, the Minister must table a copy of the report in the Legislative Assembly.

7 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

dangerous attachment device see the *Summary Offences Act 2005*, section 14B.

Part 3 Amendment of State Penalties Enforcement Regulation 2014

8 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

9 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Schedule 1, entry for *Summary Offences Act 2005*—

insert—

s 14C(1)	5
s 14C(2)	2

Part 4 Amendment of Summary Offences Act 2005

10 Act amended

This part amends the *Summary Offences Act 2005*.

11 Insertion of new pt 2, div 2A

Part 2—

[s 11]

insert—

Division 2A Offence involving use of dangerous attachment devices

14A What is an *attachment device*

- (1) An *attachment device* is a device that reasonably appears to be constructed or modified to enable a person using the device to resist being safely removed from a place or safely separated from a thing.
- (2) To remove any doubt, it is declared that none of the following things is an attachment device unless it is a component of a dangerous attachment device—
 - (a) glue;
 - (b) a bike lock;
 - (c) a padlock;
 - (d) a rope;
 - (e) a chain.
- (3) In this section—

bike lock means a device manufactured and sold as a device for securing a bicycle while the device is locked.

14B What is a *dangerous attachment device*

- (1) An attachment device is a *dangerous attachment device* if it—
 - (a) reasonably appears to be constructed or modified to cause injury to a person who attempts to interfere with the device; or

- (b) reasonably appears to be constructed or modified to cause injury to a person if another person interferes with the device; or
 - (c) incorporates a dangerous substance or thing.
- (2) Also, a sleeping dragon, dragon's den, monopole and tripod are each a ***dangerous attachment device***.
- (3) An attachment device is a ***sleeping dragon*** if it incorporates—
- (a) an anchor point for a person to hold or to which a person's hand can be bound or locked; and
 - (b) a casing that shields the person's hand, or the binding or lock, from being released by another person.

Example of a sleeping dragon—

two large steel pipes welded together at an angle with a thick pin fixed in the centre

- (4) An attachment device is a ***dragon's den*** if it—
- (a) incorporates 1 or more sleeping dragons or tubes large enough to pass a person's hand through; and
 - (b) reinforces the casing of the sleeping dragon or tube by adding bulk and weight.

Example of a dragon's den—

a 44-gallon drum incorporating a sleeping dragon and otherwise filled with concrete

- (5) An attachment device is a ***monopole*** if—
- (a) it relies on a long pole and support riggings to suspend a person off the ground; and
 - (b) it reasonably appears to be set up to fall if another person interferes with the support riggings; and

[s 11]

- (c) a fall of the device would cause injury to the person suspended from it.
- (6) An attachment device is a *tripod* if—
 - (a) the legs of the device form a tripod large enough to be used to suspend a person off the ground; and
 - (b) it reasonably appears to be set up to collapse if another person interferes with the legs of the device or any support riggings for the device; and
 - (c) a collapse of the device would cause injury to the person suspended from it.
- (7) To remove any doubt, it is declared that a device is a dangerous attachment device under this section regardless of whether—
 - (a) persons using the device can release themselves from it; or
 - (b) the device would automatically deactivate or release itself after a period of time; or
 - (c) protective clothing or other shielding would prevent injury to any person.
- (8) In this section—

attachment device see section 14A.

dangerous substance or thing, for a dangerous attachment device, means—

 - (a) any thing likely to explode, when struck or compressed, causing injury to a person; or
 - (b) any thing likely to cut a person's skin while a person is being extricated from the dangerous attachment device; or
 - (c) any substance or thing that requires a person to wear protective clothing to safely handle, cut or break up the thing while a person is

being extricated from the dangerous attachment device.

Example for paragraph (c)—

a pipe or casing made of asbestos

interfere, with a thing, includes to cut, damage, deactivate, move or release the thing.

protective clothing means clothing, eyewear or masks designed to protect the wearer from infection or injury caused by chemicals, electricity or heat.

support riggings, for a thing, means the cables, chains, ropes or other materials used to stabilise the thing in a particular position.

14C Use of dangerous attachment device to disrupt lawful activities

- (1) A person must not use a dangerous attachment device to unreasonably interfere with the ordinary operation of transport infrastructure, unless the person has a reasonable excuse.

Example of unreasonably interfering with transport infrastructure—

placing an obstacle, on a railway, that stops the passage of rolling stock

Maximum penalty—50 penalty units or 2 years imprisonment.

- (2) A person must not use a dangerous attachment device to do either of the following, unless the person has a reasonable excuse—
- (a) stop a person from entering or leaving a place of business;
 - (b) cause a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

[s 11]

Maximum penalty—20 penalty units or 1 year’s imprisonment.

(3) However, subsection (2) does not apply to a monopole or tripod unless it incorporates a dangerous substance or thing.

(4) In this section—

dangerous attachment device see section 14B.

dangerous substance or thing see section 14B(8).

monopole see section 14B(5).

transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

tripod see section 14B(6).

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