

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, February 2024*



Queensland

**No.
A BILL for**

**An Act to amend the Police Powers and Responsibilities Act 2000 and the
Summary Offences Act 2005 for particular purposes**



Queensland

Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Bill 2024

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2024

A Bill

for

An Act to amend the *Police Powers and Responsibilities Act 2000* and the *Summary Offences Act 2005* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Act 2024*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) part 2;
- (b) sections 6 to 11;
- (c) section 12.

Part 2 Amendment of Police Powers and Responsibilities Act 2000

3 Act amended

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

4 Replacement of s 43A (Unlawful sale of spray paint to minors)

Section 43A—
omit, insert—

43A Unlawful sale of controlled items or spray paint to minors

- (1) This section applies if—
 - (a) a police officer—
 - (i) observes a person being sold a thing that the officer reasonably suspects is a controlled item or spray paint; or
 - (ii) reasonably suspects a person has just been sold a controlled item or spray paint; and
 - (b) the officer reasonably suspects the person is under 18 years.
- (2) The police officer may—
 - (a) ask the person to show acceptable evidence of age of the person; and
 - (b) require the person to produce the thing sold to the person.
- (3) The police officer may seize the thing if—
 - (a) the person—
 - (i) refuses, or is unable, to show acceptable evidence of age of the person; or
 - (ii) shows acceptable evidence of age showing the person is under 18 years; and
 - (b) the officer reasonably suspects the thing is evidence of an offence against the *Summary Offences Act 2005*, section 19G, 19I, 23B or 23C.

- (4) In this section—

acceptable evidence of age see the *Summary Offences Act 2005*, schedule 2.

controlled item see the *Summary Offences Act*

[s 5]

2005, section 19E.

spray paint see the *Summary Offences Act 2005*,
schedule 2.

Part 3 Amendment of Summary Offences Act 2005

5 Act amended

This part amends the *Summary Offences Act 2005*.

6 Insertion of new pt 2, div 4B

Part 2—

insert—

Division 4B Offences about selling knives and other controlled items

19E Definitions for division

In this division—

commercial seller—

- (a) means a person who, in trade or commerce, sells controlled items to the public; but
- (b) does not include a person who sells controlled items to the public only as an employee.

controlled item—

- (a) means any of the following—
 - (i) a knife other than an exempt knife;
 - (ii) a sword, machete or axe;

- (iii) a sickle or scythe;
 - (iv) a spear gun;
 - (v) a spear;
 - (vi) a restricted item under the *Weapons Act 1990*, section 67 that is a replica of a firearm under that Act; and
- (b) includes a thing prescribed by regulation to be a controlled item; and
- (c) does not include a thing prescribed by regulation not to be a controlled item.

employee means a person who sells or may sell controlled items in the course of the person's employment.

exempt knife means—

- (a) a plastic or wooden knife designed to be used for eating; or
- (b) a knife with a rounded or dull edge; or

Example—

a butter knife

- (c) a knife designed for use as a cheese knife.

spear means a thing designed for use as a spear.

Example—

a thing designed for spearing fish

sword see the *Weapons Act 1990*, schedule 2.

19F Meaning of *sell* for division

- (1) This section applies for the application, to this division, of the definition *sell* in the dictionary.
- (2) A person does not keep or expose for sale or offer to sell a controlled item to a minor only because the person keeps or exposes for sale or offers to sell controlled items to the public generally.

[s 6]

19G Sale of controlled items to minors

- (1) A person must not sell a controlled item to a minor.

Maximum penalty—

- (a) for a first offence—140 penalty units; or
(b) for a second offence—280 penalty units; or
(c) for a third or later offence—420 penalty units.
- (2) An employee who sells a controlled item to a minor in the course of their employment can not be prosecuted under this section.

Note—

See section 19I.

- (3) It is a defence to a charge of an offence against subsection (1) for the person to prove—
- (a) the person, or an employee of the person, required the minor to produce acceptable evidence of age; and
(b) the minor produced acceptable evidence of age, or purported acceptable evidence of age, showing the minor was not a minor; and
(c) the person or employee had no reason to believe the evidence was false.

19H Commercial sellers must instruct employees about sale of controlled items

A commercial seller who is an employer must do the following in relation to each employee of the seller—

- (a) instruct the employee—
- (i) not to sell a controlled item to a minor in any circumstances, even if the sale is

for, or is claimed to be for, an adult;
and

- (ii) to sight acceptable evidence of age for a person before selling a controlled item to the person, unless satisfied the person is an adult;
- (b) warn the employee that, if the employee disregards the instructions mentioned in paragraph (a) and sells a controlled item to a minor, the employee commits an offence against section 19I;
- (c) obtain written acknowledgement by the employee that the employee received the instructions and warning mentioned in paragraphs (a) and (b).

Maximum penalty—40 penalty units.

19I Sale by employees of controlled items to minors

- (1) This section applies to an employee if a commercial seller who is an employer has complied with section 19H in relation to the employee.
- (2) The employee must not, in the course of their employment, sell a controlled item to a minor.

Maximum penalty—

- (a) for a first offence—20 penalty units; or
 - (b) for a second or later offence—40 penalty units.
- (3) It is a defence to a charge of an offence against subsection (1) for the employee to prove—
 - (a) the employee, their employer or another employee of their employer required the

[s 6]

- minor to produce acceptable evidence of age; and
- (b) the minor produced acceptable evidence of age, or purported acceptable evidence of age, showing the minor was not a minor; and
 - (c) the employee, employer or other employee had no reason to believe the evidence was false.
- (4) For this section, it does not matter if the commercial seller who complied with section 19H in relation to the employee is their employer at the time the employee sells the controlled item to the minor.

19J Application of Anti-Discrimination Act 1991, s 46

For the *Anti-Discrimination Act 1991*, section 46, a person (the *seller*) is not to be taken to discriminate against another person only because the seller refuses to sell a controlled item to the other person because of section 19G(1) or 19I(2).

19K Commercial sellers must display prohibition signs

- (1) A commercial seller must display prohibition signs at the seller's retail outlet under this section.
Maximum penalty—20 penalty units.
- (2) If any controlled items are displayed at the outlet, a prohibition sign must be displayed—
 - (a) at each place where a controlled item is displayed at the outlet, so the sign is clearly visible to a person viewing the displayed item; or

- (b) at each point of sale at the outlet, so the sign is clearly visible to a person purchasing a controlled item.
- (3) If no controlled items are displayed at the outlet, a prohibition sign must be displayed at each point of sale at the outlet, so the sign is clearly visible to a person purchasing a controlled item.
- (4) Each prohibition sign must comply with the requirements prescribed by regulation.
- (5) In this section—

point of sale means a counter or similar fixture where a controlled item may be sold.

prohibition sign means a sign about the sale of controlled items to minors.

retail outlet means premises where controlled items are available for sale to the public.

19L Commercial sellers must secure particular controlled items

- (1) This section applies if a commercial seller has in their possession a controlled item that is any of the following—
 - (a) a dagger that is a double-edged blade;
 - (b) a knife with a blade at each end;
 - (c) a sword, machete or axe;
 - (d) a sickle or scythe;
 - (e) a spear gun;
 - (f) a spear;
 - (g) a bladed item prescribed by regulation.
- (2) The commercial seller must ensure the controlled item is securely stored at all times except when a person is in physical possession of the item.

[s 6]

Maximum penalty—50 penalty units.

(3) In this section—

securely stored means—

- (a) stored in a locked room, cage, cabinet or container; or
- (b) securely tethered.

19M Prohibited sales of controlled items

(1) A person must not—

- (a) sell a controlled item with features that contravene this section; or
- (b) sell a controlled item in a way that contravenes this section.

Maximum penalty—25 penalty units.

(2) The features of a controlled item, or the way it is sold, must not—

- (a) indicate or suggest the item is—
 - (i) suitable for combat; or
 - (ii) intended to be used for violence, whether actual or threatened, against a person or fictional creature (for example, a zombie); or
- (b) be likely to stimulate or encourage violent or criminal behaviour that involves using the item.

(3) A reference in this section to the features of a controlled item, or the way it is sold, includes a reference to the use of—

- (a) images, words or markings on the item, its packaging or an associated item; or
- (b) images or words in an advertisement for the item.

Examples of images, words or markings—

- a depiction of blood or a skull
- the word ‘killer’ or ‘slayer’

Example of an item associated with a knife—

a sheath sold with the knife

- (4) A controlled item is not taken to have features, or be sold in a way, that indicates or suggests the item is suitable for combat only because of a depiction or description of the item being used in a lawful way.
- (5) An employee who sells a controlled item in the course of their employment can not be prosecuted under this section.
- (6) In this section—
sell includes advertise for sale.

19N False representation of age

A person must not falsely represent themselves to have attained 18 years for the purpose of being sold a controlled item.

Maximum penalty—25 penalty units.

7 Amendment of s 23 (Sale of potentially harmful things)

Section 23(3)—

insert—

seller means a person who, in trade or commerce, sells potentially harmful things to the public.

8 Amendment of s 23A (Seller must take prevention measures in relation to spray paint)

Section 23A(4)—

omit.

[s 9]

9 Amendment of s 23B (Sale of spray paint to minors)

(1) Section 23B(3)(b), after ‘age’—

insert—

, or purported acceptable evidence of age,

(2) Section 23B(5), other than definitions—

omit.

(3) Section 23B(5), definitions—

relocate to schedule 2.

10 Amendment of s 47 (Forfeiture of thing to which offence relates)

Section 47, after ‘17,’—

insert—

19G, 19I, 19M,

11 Amendment of s 49 (Regulation-making power)

Section 49—

insert—

- (2) To remove any doubt, it is declared that a regulation under section 19E, definition *controlled item*, paragraph (b) may prescribe a thing that is an exempt knife to be a controlled item.

11A Insertion of new pt 7

After part 6—

insert—

Part 7 Transitional provisions for Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Act 2024

51 Application of Anti-Discrimination Act 1991, s 46

- (1) For the *Anti-Discrimination Act 1991*, section 46, a person (the *seller*) does not discriminate against another person only because the seller refuses to sell a controlled item to the other person because the other person is a minor.
- (2) In this section—
controlled item—
 - (a) means any of the following—
 - (i) a knife other than an exempt knife;
 - (ii) a sword, machete or axe;
 - (iii) a sickle or scythe;
 - (iv) a spear gun;
 - (v) a spear;
 - (vi) a restricted item under the *Weapons Act 1990*, section 67 that is a replica of a firearm under that Act; and
 - (b) includes a thing prescribed by regulation to be a controlled item; and
 - (c) does not include a thing prescribed by regulation not to be a controlled item.

exempt knife means—

[s 12]

- (a) a plastic or wooden knife designed to be used for eating; or
- (b) a knife with a rounded or dull edge; or
Example—
 - a butter knife
- (c) a knife designed for use as a cheese knife.

52 Expiry of part

This part expires on the day of commencement of section 19J inserted by the *Summary Offences (Prevention of Knife Crime) and Other Legislation Amendment Act 2024*.

12 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *employee*, *potentially harmful thing* and *seller*—

omit.

- (2) Schedule 2—

insert—

commercial seller, for part 2, division 4B, see section 19E.

controlled item, for part 2, division 4B, see section 19E.

employee—

- (a) for part 2, division 4B, see section 19E; or
- (b) for sections 23A to 23E, means a person who sells, or may sell, spray paint in the course of the person's employment.

exempt knife, for part 2, division 4B, see section 19E.

seller, for sections 23A to 23E, means—

- (a) a person who, in trade or commerce, sells spray paint to the public; or
- (b) an employee of a person mentioned in paragraph (a).

spear, for part 2, division 4B, see section 19E.

sword, for part 2, division 4B, see the *Weapons Act 1990*, schedule 2.

- (3) Schedule 2, definition *sell*—

insert—

- (ba) sell online or at any place; and

Examples of places where a sale may happen—

retail premises, a flea market, a temporary retail stall, a private residence

- (bb) sell, outside Queensland, to a person in Queensland; and

- (4) Schedule 2, definition *sell*, paragraphs (ba) to (e)—

renumber as paragraphs (c) to (g).

- (5) Schedule 2, definition *sell*—

insert—

Notes—

- 1 For part 2, division 4B, *sell* has the meaning affected by section 19F.
- 2 For sections 23A to 23D, *sell* has the meaning affected by section 23E.

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