



New South Wales

Summary Offences and Law Enforcement Legislation Amendment (Laser Pointers) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to create an offence (maximum penalty \$5,500 or imprisonment for 2 years, or both) of possessing or using, without reasonable excuse, a laser pointer in a public place, and
- (b) to include laser pointers as dangerous implements within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*, and to give a police officer the power to frisk search a person in a public place if the police officer reasonably suspects the person has a laser pointer in his or her custody.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Law Enforcement (Powers and Responsibilities) Act 2002* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced.

Schedule 1 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002

Schedule 1 [3] provides that a *laser pointer* has the same meaning under the *Law Enforcement (Powers and Responsibilities) Act 2002 (the Principal Act)* as it has under proposed section 11FA of the *Summary Offences Act 1988*. **Schedule 1 [2]** amends the definition of *dangerous implement* in the Principal Act to include a laser pointer. Under the Principal Act, a police officer has the power to request a person who is in a public place or school to submit to a frisk search if the police officer suspects on reasonable grounds that the person has a dangerous implement in his or her custody and a police officer also has the power to confiscate a dangerous implement. **Schedule 1 [4]** provides that certain references in the Principal Act to a dangerous implement do not extend to a laser pointer. These include the power to require a person to submit to a frisk search and the power to search premises for a dangerous implement if a police officer suspects the dangerous implement is being, or was, or may have been or may be used to commit a domestic violence offence. **Schedule 1 [5]** includes a new power for a police officer to request a person who is in a public place to submit to a frisk search if the police officer suspects on reasonable grounds that the person has a laser pointer in his or her custody. This power does not extend to a person in a school as is the case with other dangerous implements. However, the power in the Principal Act to confiscate a dangerous implement does extend to a laser pointer. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [6] enables the regulations to make provision for matters of a savings and transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Summary Offences Act 1988

Schedule 2 [2] inserts proposed section 11FA into the *Summary Offences Act 1988* which makes it an offence (maximum penalty \$5,500 or imprisonment for 2 years, or both) for a person, without reasonable excuse, to have in his or her custody a laser pointer in a public place or use a laser pointer in a public place. It is a reasonable excuse for a person to have custody of, or use, a laser pointer if the custody or use is reasonably necessary in all the circumstances for the lawful pursuit of the person's occupation, education, training or hobby. It is also a reasonable excuse for a person to have custody of a laser pointer during travel to or from or incidental to that occupation, education, training or hobby. **Schedule 2 [1]** makes a consequential amendment.



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Summary Offences and Law Enforcement Legislation Amendment (Laser Pointers) Bill 2008

No. , 2008

A Bill for

An Act to amend the *Summary Offences Act 1988* to make it an offence to possess or use a laser pointer in a public place, to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to include a laser pointer as a dangerous implement within the meaning of that Act; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Summary Offences and Law Enforcement Legislation Amendment (Laser Pointers) Act 2008</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	7 8
The <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> is amended as set out in Schedule 1.	9 10
4 Amendment of Summary Offences Act 1988 No 25	11
The <i>Summary Offences Act 1988</i> is amended as set out in Schedule 2.	12
5 Repeal of Act	13
(1) This Act is repealed on the day following the day on which all the provisions of this Act have commenced.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002	1
		2
	(Section 3)	3
[1] Section 3 Interpretation		4
	Insert “or” after “property,” in paragraph (d) of the definition of <i>dangerous implement</i> in section 3 (1).	5
		6
[2] Section 3 (1), definition of “dangerous implement”		7
	Insert after paragraph (d):	8
	(e) a laser pointer,	9
[3] Section 3 (1)		10
	Insert in alphabetical order:	11
	<i>laser pointer</i> means a hand-held battery-operated device, designed or adapted to emit a laser beam, that may be used for the purposes of aiming, targeting or pointing.	12
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[4] Sections 26 (1) and (3) and 87 (a)		15
	Insert “(other than a laser pointer)” after “dangerous implement” wherever occurring.	16
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[5] Section 26 (1A)		18
	Insert after section 26 (1):	19
	(1A) A police officer may request a person who is in a public place to submit to a frisk search if the police officer suspects on reasonable grounds that the person has a laser pointer in his or her custody.	20
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[6] Schedule 5 Savings, transitional and other provisions		24
	Insert at the end of clause 1 (1):	25
	<i>Summary Offences and Law Enforcement Legislation Amendment (Laser Pointers) Act 2008</i> (but only to the extent that it amends this Act)	26
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Schedule 2	Amendment of Summary Offences Act 1988	1
		2
	(Section 4)	3
[1] Part 2, Division 2, Subdivision 1, heading		4
Insert before section 11B:		5
Subdivision 1 Knives and offensive implements		6
[2] Part 2, Division 2, Subdivision 2		7
Insert after section 11F:		8
Subdivision 2 Laser pointers		9
11FA Custody or use of laser pointer in public place		10
(1) A person must not, without reasonable excuse (proof of which lies on the person):		11
(a) have in his or her custody a laser pointer in a public place, or		12
(b) use a laser pointer in a public place.		13
Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.		14
(2) Without limitation, it is a reasonable excuse for the purposes of this section for a person:		15
(a) to have custody of, or use, a laser pointer if the custody or use is reasonably necessary in all the circumstances for the lawful pursuit of the person's occupation, education, training or hobby, or		16
(b) to have custody of a laser pointer if the person has custody during travel to or from or incidental to that occupation, education, training or hobby.		17
(3) The regulations may provide that this section does not apply to or in relation to any specified class or description of laser pointer.		18
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- (4) In this section: 1
laser pointer means a hand-held battery-operated device, 2
designed or adapted to emit a laser beam, that may be used for the 3
purposes of aiming, targeting or pointing. 4