

Queensland



**POLICE POWERS AND
RESPONSIBILITIES AND
ANOTHER ACT AMENDMENT
BILL 2002**



POLICE POWERS AND RESPONSIBILITIES AND ANOTHER ACT AMENDMENT BILL 2002

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	4
2	Commencement	4
PART 2—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000		
3	Act amended in pt 2	4
4	Amendment of ch 2, pt 6, div 2, hdg	4
5	Renumbering of ch 2, pt 6, divs 2-3	4
6	Insertion of new ch 2, pt 6, div 2	5
<i>Division 2—Vehicle impounding powers for prescribed offences</i>		
59A	Application of div 2	5
59B	Punishment under this division is in addition to other punishment for the same offence	5
59C	Powers for prescribed offence	5
59D	Police officer may authorise tow	6
59E	Notice of impounding to be given	7
59F	Content of notice for first offence	7
59G	Content of notice for second or subsequent offence	8
59H	Application for impounding or forfeiture order	9
59I	Orders if relevant offence not decided	9
59J	Where application to be decided	10
59K	Advice to owner of date of hearing	10
59L	Consideration of application	10

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

59M	Defence	12
59N	Appeal	12
59O	Powers for enforcing court order	12
59P	Who must pay costs of impounding	13
59Q	Return of vehicle impounded for first prescribed offence	13
59R	Return of vehicle if driver found not guilty etc.	14
59S	Protection from liability	14
59T	Recovery of impounded vehicle	14
59U	Voluntary transfer of ownership of vehicle to State	15
59V	Disposal of forfeited vehicle	15
59W	Application of proceeds of sale	15
59X	Third party protection from forfeiture order	16
7	Amendment of s 65A (Application of div 2A)	17
8	Amendment of s 358 (Application of pt 3)	17
9	Amendment of s 359 (Complaint about noise)	18
10	Amendment of s 360 (Powers of police officer on investigation of complaint)	18
11	Amendment of s 420 (Application of pt 3)	19
12	Amendment of s 451 (Obtaining warrants, orders and authorities etc., by telephone or similar facility)	19
13	Amendment of sch 4 (Dictionary)	19
PART 3—AMENDMENT OF TOW TRUCK ACT 1973		
14	Act amended in pt 3.	21
15	Amendment of s 38 (Exemptions)	22
16	Amendment of s 43 (Regulation making power)	22

2002

A BILL

FOR

**An Act to amend the *Police Powers and Responsibilities Act 2000*, and
for other purposes**

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Clause 1 Short title

3

This Act may be cited as the *Police Powers and Responsibilities and Another Act Amendment Act 2002*.

4

5

Clause 2 Commencement

6

This Act commences on a day to be fixed by proclamation.

7

**PART 2—AMENDMENT OF POLICE POWERS AND
RESPONSIBILITIES ACT 2000**

8

9

Clause 3 Act amended in pt 2

10

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

11

Clause 4 Amendment of ch 2, pt 6, div 2, hdg

12

Chapter 2, part 6, division 2, heading—

13

omit, insert—

14

‘Division 2—Removal powers other than for impounded vehicles’.

15

Clause 5 Renumbering of ch 2, pt 6, divs 2-3

16

Chapter 2, part 6, divisions 2, 2A and 3—

17

renumber as chapter 2, part 6, divisions 3, 4 and 5.

18

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

Clause 6	Insertion of new ch 2, pt 6, div 2	1
	Chapter 2, part 6, after section 59—	2
	<i>insert—</i>	3
	<i>‘Division 2—Vehicle impounding powers for prescribed offences</i>	4
	‘59A Application of div 2	5
	‘(1) This division applies if a police officer reasonably suspects a person is committing, or has committed, a prescribed offence in relation to a vehicle.	6 7 8
	‘(2) However, a reference in any provision of this division to a prescribed offence is a reference only to a prescribed offence committed after the commencement of this division.	9 10 11
	<i>Example—</i>	12
	The reference to a prescribed offence in section 59G(1).	13
	‘(3) Also, nothing in this division affects the rights of a credit provider to repossess a vehicle under the Consumer Credit Code and sell it.	14 15
	‘59B Punishment under this division is in addition to other punishment for the same offence	16 17
	‘The impounding or forfeiture of a vehicle or the imposition of community service on a person under this division arising out of the commission of a prescribed offence is in addition to any other penalty that may be imposed on the person for the prescribed offence.	18 19 20 21
	‘59C Powers for prescribed offence	22
	‘(1) A police officer may stop the vehicle, if it is moving.	23
	‘(2) If a proceeding against the person in control of the vehicle for the suspected prescribed offence has been started by notice to appear or arrest a police officer may impound the vehicle.	24 25 26
	‘(3) To impound a vehicle, a police officer may—	27

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

(a)	direct the person in control of the vehicle or in possession of the keys necessary to enable the vehicle to be moved to give the keys to a police officer; ¹ and	1 2 3
(b)	enter the vehicle to impound it; and	4
(c)	do anything else reasonably necessary for impounding the vehicle.	5 6
	<i>Example—</i>	7
	It may be necessary to arrange for a locking device on the vehicle to be made inoperative by removing or dismantling it.	8 9
	‘(4) Unless section 59H ² applies to the person in control, a vehicle impounded under subsection (2) (“ impounded vehicle ”) is impounded for 48 hours.	10 11 12
	‘(5) Also, the police officer must move or arrange for the impounded vehicle to be moved to a holding yard in the way the police officer considers appropriate.	13 14 15
	<i>Examples of ways of moving an impounded vehicle—</i>	16
	1. Driving the vehicle.	17
	2. Pushing the vehicle.	18
	3. Towing the vehicle.	19
	‘(6) However, if the impounded vehicle is a vehicle that is being unlawfully used or has been stolen or is a rental vehicle—	20 21
	(a) the vehicle must be returned to the owner as soon as reasonably practicable; and	22 23
	(b) an application under section 59H about the vehicle must not be made.	24 25
	‘59D Police officer may authorise tow	26
	‘(1) This section applies if a police officer arranges for the impounded vehicle to be towed to a holding yard.	27 28

1 Failure to comply with the direction is an offence against section 445 (Offence to contravene direction or requirement of police officer).

2 Section 59H (Application for impounding or forfeiture order)

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘(2) A police officer may sign a towing authority for the impounded vehicle.	1 2
‘(3) The driver of a tow truck towing the impounded vehicle under the towing authority must tow the vehicle to—	3 4
(a) if the police officer directs the driver to tow the vehicle to a particular holding yard—the holding yard directed by the police officer; or	5 6 7
(b) the holding yard to which the driver ordinarily tows vehicles.	8
‘(4) A person must not unlawfully remove an impounded vehicle from a holding yard.	9 10
Maximum penalty—40 penalty units.	11
‘(5) For subsection (4), it does not matter how the vehicle was moved to the holding yard.	12 13
‘(6) In this section—	14
“towing authority” means—	15
(a) a towing authority under the <i>Tow Truck Act 1973</i> ; or	16
(b) another document authorising a person to tow a vehicle.	17
‘59E Notice of impounding to be given	18
‘(1) As soon as reasonably practicable after the vehicle is impounded, a police officer must give written notice of the impounding of the vehicle to—	19 20 21
(a) the person in control of the vehicle; and	22
(b) if the person in control is not the only owner of the vehicle—each owner of the vehicle.	23 24
‘(2) The notice must include the information required under section 59F or 59G.	25 26
‘59F Content of notice for first offence	27
‘(1) This section applies if section 59G does not apply.	28
‘(2) The notice must state—	29

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- (a) how the owner of the impounded vehicle may recover the vehicle; and 1
2
- (b) that the vehicle is impounded for 48 hours; and 3
- (c) that, before the vehicle may be recovered, the owner may be required to produce satisfactory evidence of the ownership of the vehicle; and 4
5
6
- (d) that if the person in control is found guilty of the prescribed offence that person will be required to pay the costs of removing and keeping the vehicle; and 7
8
9
- (e) the penalty for unlawfully removing the vehicle from the place at which it is held. 10
11

‘59G Content of notice for second or subsequent offence 12

‘(1) This section applies only if a police officer reasonably suspects the person in control of an impounded vehicle has been found guilty of a prescribed offence within 3 years before the day the vehicle is impounded. 13
14
15

‘(2) The notice must state— 16

- (a) that an application will be made to a Court or a magistrate— 17
 - (i) if the person in control of the vehicle has previously been found guilty of a prescribed offence on 1 occasion—for an order that the vehicle be impounded for up to 3 months (“**impounding order**”); or 18
19
20
21
 - (ii) if the person in control of the vehicle has previously been found guilty of a prescribed offence on 2 or more occasions—for an order that the vehicle be forfeited to the State (“**forfeiture order**”); and 22
23
24
25
- (b) that the person in control of the vehicle or owner may apply to the court at any time before the application is heard and decided for the return of the vehicle until the application is heard and decided; and 26
27
28
29
- (c) that, for an application under paragraph (b), the owner may be required to produce satisfactory evidence of the ownership of the vehicle; and 30
31
32

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- (d) that if the person in control is found guilty of the prescribed offence, the person in control will be required to pay the costs of removing and keeping the vehicle; and
- (e) the penalty for unlawfully removing the vehicle from the place at which it is held.

‘59H Application for impounding or forfeiture order

- ‘(1) This section applies if the driver of an impounded vehicle has previously been found guilty of a prescribed offence within 3 years before the day the vehicle is impounded.
- ‘(2) Within 48 hours after the vehicle is impounded, a police officer must apply for—
- (a) if the driver has previously been found guilty of a prescribed offence on 1 occasion—an order that the impounded vehicle be held at a holding yard for period of not more than 3 months (“**impounding order**”); or
 - (b) if the driver has previously been found guilty of a prescribed offence on 2 or more occasions—an order that the impounded vehicle be forfeited to the State (“**forfeiture order**”).
- ‘(3) The application must be made to a Magistrates Court or to a magistrate under section 451.³
- ‘(4) Subsection (3) applies even though the value of the vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of the court.

‘59I Orders if relevant offence not decided

- ‘(1) This section applies if—
- (a) an application is made to a Magistrates Court or a magistrate (the “**court**”) for an impounding order or a forfeiture order (“**relevant order**”) about an impounded vehicle; and
 - (b) the proceeding for the offence giving rise to the application has not been decided.

³ Section 451 (Obtaining warrants, orders and authorities, etc., by telephone or similar facility)

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- ‘(2) The court must adjourn the application for the relevant order until the charge of the prescribed offence against the person in control of the impounded vehicle is decided. 1
2
3
- ‘(3) When adjourning the application, the court must order that the impounded vehicle be returned to a named person, unless the court is satisfied the vehicle should continue to be impounded to stop the commission of another prescribed offence. 4
5
6
7
- ‘(4) The owner of the vehicle must not sell or otherwise dispose of a vehicle returned under subsection (3) until the application for the relevant order is decided or otherwise ends. 8
9
10
- Maximum penalty—40 penalty units. 11
- ‘(5) If the court does not order the return of the vehicle to the owner under subsection (3), the period for which the vehicle is impounded must not be more than 3 months. 12
13
14
- ‘(6) Subsection (5) does not apply if the application is an application for the forfeiture of the vehicle. 15
16
- ‘59J Where application to be decided 17**
- ‘(1) An application for a forfeiture order or impounding order must be heard and decided by the court that heard the charge of the prescribed offence to which the application relates (the “**relevant court**”) as soon as practicable after the person is found guilty of the prescribed offence. 18
19
20
21
- ‘(2) If the court that hears the charge is not a Magistrates Court, section 59I applies with necessary changes. 22
23
- ‘59K Advice to owner of date of hearing 24**
- ‘As soon as reasonably practicable after a date is set for the hearing of an application for an impounding order or a forfeiture order in relation to an impounded vehicle, a police officer must give the person in control of the vehicle and each owner of the vehicle written notice of the date, time and place of the hearing. 25
26
27
28
29
- ‘59L Consideration of application 30**
- ‘(1) On the hearing of the application, the relevant court may— 31

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- (a) if the person in control of the impounded vehicle has previously been found guilty of a prescribed offence on 2 occasions—order that the vehicle be impounded for a stated period, of not more than 3 months; or
 - (b) if the person in control of the impounded vehicle has previously been found guilty of a prescribed offence on 3 or more occasions—order that the vehicle be forfeited to the State or impounded for the period, of not more than 3 months, fixed by the court.
- ‘(2) However, if the relevant court is satisfied impounding or forfeiting the vehicle will cause severe financial or physical hardship to an owner or usual driver of the vehicle, the court may, instead of ordering the impounding or forfeiture of the vehicle—
- (a) order that the vehicle be returned to the owner or the usual driver; and
 - (b) if the person in control of the impounded vehicle was an adult—order the person to perform not more than 240 hours community service.
- ‘(3) An order made under subsection (2)(b)—
- (a) is taken to be an order made under the *Penalties and Sentences Act 1992* for the performance of community service under a fine option order under that Act; and
 - (b) is taken to have been made in the proceeding for the prescribed offence giving rise to the application for the impounding order or forfeiture order.
- ‘(4) Also, if an owner of the vehicle raises the defence mentioned in section 59M and the relevant court is satisfied the defence has been made out, the court may order that the vehicle be returned to the owner.
- ‘(5) On the making of a forfeiture order for a vehicle—
- (a) the vehicle becomes the property of the State; and
 - (b) any right of a person to enforce a charge or other security interest registered under the *Motor Vehicles Securities Act 1986* against a person other than the State by taking possession of the vehicle is extinguished.

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘59M Defence

‘In a proceeding for an impounding order or a forfeiture order in relation to an impounded vehicle, it is a defence for an owner of the vehicle to prove that the prescribed offence happened without the knowledge and consent of the owner.

Example—

A parent lends a vehicle to his or her child to visit friends and the child commits a prescribed offence in the vehicle. If the Magistrates Court is satisfied, on evidence tendered or submissions made by the parent, that the child committed the offence without the knowledge and consent of the parent, the Magistrates Court may order the vehicle’s return to the parent.

‘59N Appeal

‘(1) An order made against a person under section 59L(2)(b) may be appealed against as a sentence imposed on the person.

‘(2) A person may appeal against any other order of a Magistrates Court or magistrate under this division to the District Court within 28 days after the day the order is made.

‘(3) Also, a person may appeal against an order of the District Court under this division to the Court of Appeal within 28 days after the day the order is made.

‘(4) On the appellant’s application, the appeal may be by way of rehearing from the start.

‘59O Powers for enforcing court order

‘(1) This section applies if—

(a) the court orders the return of a vehicle to its owner under section 59I(3); and

(b) the relevant court later makes an impounding order or a forfeiture order for the vehicle.

‘(2) For giving effect to the impounding order or forfeiture order, the relevant court may, in the order, authorise a police officer, without warrant, to enter any place the police officer reasonably suspects is a place where the vehicle may be found and search for, seize and remove the vehicle.

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘59P Who must pay costs of impounding

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
- ‘(1) This section applies in relation to an impounded vehicle.
- ‘(2) The person in control of the vehicle when it was impounded under section 59C because of a prescribed offence is liable to pay the costs of removing and keeping the vehicle.
- ‘(3) However, if the person is found not guilty of the prescribed offence or the proceeding is withdrawn, the State is liable to pay the costs of removing and keeping the vehicle.
- ‘(4) Also, the State is liable to pay the costs of removing and keeping the vehicle for the first 48 hours.
- ‘(5) However, if a person who is entitled to recover a vehicle after the first 48 hours of impounding ends fails to recover the vehicle, the person is liable to pay the costs of keeping the vehicle for each day after the first 48 hours ends.
- ‘(6) If the person is found guilty of the prescribed offence the costs paid by the State under subsection (4) or someone else on the person’s behalf become a debt payable to the State or other person by the person.
- ‘(7) If the person fails to pay the costs owing to the State, the commissioner may give particulars of the costs to the registrar under the *State Penalties Enforcement Act 1999* for registration under that Act as if—
- (a) the commissioner were the registrar of a court; and
 - (b) the particulars were particulars of a fine imposed by a court and the amount of the fine were unpaid after the time allowed by the court for payment.
- ‘(8) The registrar must register the particulars under the *State Penalties Enforcement Act 1999*, section 34.⁴

‘59Q Return of vehicle impounded for first prescribed offence

- 27
28
29
- ‘(1) This section applies if a notice under section 59F was served on a person.

⁴ *State Penalties Enforcement Act 1999*, section 33 (Default in paying fine, penalty or other amount under court order)

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- ‘(2) When the 48 hours for which the vehicle is impounded ends, the owner of the vehicle is entitled to recover the vehicle from the holding yard at which it is kept whether or not the State has paid the costs of removing the vehicle to, and keeping it at, the holding yard. 1
2
3
4
- ‘(3) The person holding the vehicle must return the vehicle to the owner on request. 5
6
- ‘59R Return of vehicle if driver found not guilty etc. 7**
- ‘If a person is found not guilty of the prescribed offence or the proceeding is discontinued, the vehicle must be returned to the owner as soon as reasonably practicable. 8
9
10
- ‘59S Protection from liability 11**
- ‘(1) A police officer acting in good faith and without negligence is not liable for any damage, loss or depreciation to the vehicle during the impounding of the vehicle. 12
13
14
- ‘(2) If subsection (1) prevents liability attaching to a police officer, liability instead attaches to the State. 15
16
- ‘(3) Also, if a police officer signs a towing authority under section 59D for the vehicle, the State is not liable for any damage, loss or depreciation to the vehicle while it is being moved under the towing authority and while it is impounded in the holding yard of the person authorised under the towing authority to tow the vehicle. 17
18
19
20
21
- ‘59T Recovery of impounded vehicle 22**
- ‘(1) If, within 2 months after a period of impounding of a vehicle ends, the owner of the vehicle does not recover it, the commissioner may sell the vehicle and anything in or on it by public auction or dispose of it in the way the commissioner considers appropriate. 23
24
25
26
- ‘(2) Notice of the proposed sale or disposal must be given by advertisement in a newspaper circulating in the locality where the vehicle was impounded. 27
28
29
- ‘(3) Also, the commissioner must give written notice of the proposed sale or disposal of the vehicle to the owner. 30
31

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘59U Voluntary transfer of ownership of vehicle to State	1
‘(1) The owner of an impounded vehicle may agree to transfer ownership of the vehicle to the State.	2 3
‘(2) The agreement must be written and witnessed by a person who may witness a statutory declaration.	4 5
‘(3) If the State agrees in writing to the transfer of the vehicle—	6
(a) the vehicle becomes the property of the State; and	7
(b) the commissioner may sell or dispose of the vehicle and anything in it or on it in the way the commissioner considers appropriate.	8 9
‘59V Disposal of forfeited vehicle	10
‘The commissioner may dispose of a vehicle forfeited to the State under this division in the way the commissioner considers appropriate, including by selling it.	11 12 13
‘59W Application of proceeds of sale	14
‘(1) This section applies if the commissioner decides to sell a vehicle under section 59T or 59V.	15 16
‘(2) The proceeds of the sale of the vehicle are to be paid—	17
(a) first, in payment of the expenses of the sale; and	18
(b) second, in payment of the cost of impounding and keeping the vehicle and for searching registers for giving notice of the vehicle’s impounding; and	19 20 21
(c) third, if there is an amount owing to a person under a security interest registered for the vehicle under the <i>Motor Vehicles Securities Act 1986</i> —in payment of the amount owing to the holder of the security interest; and	22 23 24 25
(d) fourth—	26
(i) if the vehicle is sold under section 59T—to the owner;	27
(ii) if the vehicle is sold under section 59V—to the consolidated fund.	28 29
‘(3) Compensation is not recoverable against the State in relation to a payment made under this section.	30 31

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘59X Third party protection from forfeiture order

‘(1) A person, other than the defendant, who did not appear at the hearing of an application for a forfeiture order and has an interest in the vehicle forfeited to the State under the order may apply to the relevant court for an order under subsection (5).

‘(2) Unless the relevant court gives leave, the application must be made before the end of the period of 6 months starting on the day the forfeiture order was made.

‘(3) The relevant court may give leave for a later application if it is satisfied that the delay in applying was not because of the applicant’s neglect.

‘(4) Unless the relevant court gives leave, a person who was given notice of the application for the forfeiture order can not apply to the court for an order under subsection (5).

‘(5) On an application, an order may be made—

- (a) declaring the nature, extent and, if necessary for the order, the value (when the declaration is made) of the applicant’s interest in the vehicle; and
- (b) directing the State—
 - (i) if the vehicle is still vested in the State—to transfer the vehicle to the applicant; or
 - (ii) if the vehicle is no longer vested in the State—to pay to the applicant the value of the applicant’s interest in the vehicle after taking into account any amount paid to the holder of a registered security interest under section 59W(2)(c).

‘(6) The relevant court must, and may only, make the order if it is satisfied—

- (a) the applicant has or, apart from the forfeiture, would have a genuine interest in the vehicle; and
- (b) the relevant prescribed offence happened without the knowledge and consent of the applicant.

‘(7) For all applications, including applications for leave to apply—

- (a) the applicant must give notice of the making of the application to—

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

(i) for an application made to a Magistrates Court—the commissioner; or 1
2

(ii) for an application made to another court—the Attorney-General; and 3
4

(b) the party given notice is a party to the application. 5

‘(8) In this section— 6

“**defendant**” means the person found guilty of the prescribed offence because of which the forfeiture order was made. 7
8

“**relevant court**” means the relevant court to which the application for the forfeiture order was made. 9
10

“**relevant prescribed offence**” means the prescribed offence because of which the forfeiture order was made.’. 11
12

Clause 7 Amendment of s 65A (Application of div 2A) 13

Section 65A, heading, ‘**div 2A**’— 14

omit, insert— 15

‘**div 4**’. 16

Clause 8 Amendment of s 358 (Application of pt 3) 17

(1) Section 358(2), after ‘abatement of’— 18

insert— 19

‘environmental nuisance caused by’. 20

(2) Section 358(2)— 21

renumber as section 358(3). 22

(3) Section 358— 23

insert— 24

‘(2) Also, this part applies to the abatement of environmental nuisance caused by excessive noise that— 25
26

(a) is emitted from a vehicle on a road or in a public place; and 27

(b) is emitted by an appliance for electronically producing or amplifying music or other sounds.’. 28
29

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

(4) Section 358—

insert—

‘(4) Also, in relation to environmental nuisance caused by excessive noise emitted from a motor vehicle on a road or in a public place, this part only applies to excessive noise emitted by a radio, CD player or other similar equipment in the vehicle.’.

Clause 9 Amendment of s 359 (Complaint about noise)

Section 359—

insert—

‘(3) However, this section does not stop a police officer taking action under this part without a complaint in relation to excessive noise emitted from a motor vehicle on a road or in a public place.’.

Clause 10 Amendment of s 360 (Powers of police officer on investigation of complaint)

(1) Section 360, heading, ‘**complaint**’—

omit, insert—

‘**excessive noise**’.

(2) Section 360(2), after ‘circumstances’—

insert—

‘for subsection (1)’.

(3) Section 360(2)—

renumber as section 360(3).

(4) Section 360—

insert—

‘(2) Also, this section applies if a police officer is reasonably satisfied the noise being emitted from a vehicle on a road or in a public place is excessive in the circumstances.’.

(5) Section 360(3)(b), after ‘of the place,’—

insert—

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

‘or, for a vehicle, the driver of the vehicle,’.

(6) Section 360(3) and (4)—

renumber as section 360(5) and (6).

(7) Section 360—

insert—

‘(4) In deciding for subsection (2) whether noise is excessive in the circumstances, a police officer may have regard to the degree of interference or annoyance the noise is causing, or is likely to cause, to persons in the vicinity of the road or public place.

Example—

The person may be causing interference or annoyance to patrons of a motel by continually driving past the motel with the volume of a radio in the car at an excessive level.’.

Clause 11 Amendment of s 420 (Application of pt 3)

Section 420(2)(a), from ‘seized’—

omit, insert—

‘impounded under chapter 2, part 6, division 2 or seized under section 60;⁵ or’.

Clause 12 Amendment of s 451 (Obtaining warrants, orders and authorities etc., by telephone or similar facility)

Section 451(1), after ‘production order’—

insert—

‘, an order impounding or forfeiting a vehicle under chapter 2, part 6, division 2’.

Clause 13 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition “seize”—

⁵ Chapter 2 (General enforcement powers), part 6 (Powers relating to vehicles, traffic and animals), division 2 (Vehicle impounding powers for prescribed offences) or section 60 (Removal of vehicles and animals from roads and other places)

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

<i>omit.</i>	1
(2) Schedule 4—	2
<i>insert—</i>	3
‘ “burn out” , for a vehicle, means wilfully drive the vehicle in a way that	4
causes the tyres or a substance poured onto the road surface, or both,	5
to smoke when the drive wheels lose traction with the road surface.	6
<i>Example—</i>	7
Oil may be poured on the road surface and a vehicle driven on the oily surface in	8
a way that causes the tyres to spin and the tyres or oil to smoke.	9
“holding yard” means—	10
(a) for a person licensed under the <i>Tow Truck Act 1973</i> to tow motor	11
vehicles—the place used by the licensee as a holding yard for the	12
storage of—	13
(i) a motor vehicle towed under the licence; and	14
(ii) any moveable property found in the motor vehicle; or	15
(b) for a person exempted under a regulation under the <i>Tow Truck</i>	16
<i>Act 1973</i> from holding a licence under that Act—the place used	17
by the person as a holding yard for the storage of—	18
(i) a motor vehicle towed by the person; and	19
(ii) any moveable property found in the motor vehicle; or	20
(c) otherwise—	21
(i) a yard at a police establishment; or	22
(ii) a place the commissioner decides is to be a holding yard.	23
“owner” , of a vehicle, for chapter 2, part 6, division 2, includes—	24
(a) a person in whose name the vehicle is registered under a	25
transport Act or a corresponding law of another State; and	26
(b) a holder of a security interest registered for the vehicle under the	27
<i>Motor Vehicles Securities Act 1986</i> .	28
“prescribed offence” , for chapter 2, part 6, division 2 means any of the	29
following offences committed in circumstances that involve a speed	30
trial, a race between vehicles, or a burn out—	31

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

- (a) an offence against the Criminal Code, section 328A⁶ committed on a road or in a public place; or 1
2
 - (b) an offence against the Road Use Management Act, section 83;⁷ or 3
 - (c) an offence against the Road Use Management Act, section 85;⁸ or 4
 - (d) an offence against the Road Use Management Act involving wilfully starting a vehicle, or driving a vehicle, in a way that makes unnecessary noise or smoke. 5
6
7
- Note—* 8
- At the enactment of this definition, a relevant offence for paragraph (d) was an offence against the *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 291(1)(b). 9
10
11
- “relevant court”** see section 59J. 12
- “seize”** includes retain, but does not include impound. 13
- “speed trial”** means— 14
- (a) any attempt to establish or break any vehicle speed record of any description on a road; or 15
16
 - (b) any trial of any description of the speed of a vehicle on a road; or 17
 - (c) any competitive trial of any description designed to test the skill of any vehicle or driver or the reliability or mechanical condition of any vehicle on any road.’. 18
19
20

PART 3—AMENDMENT OF TOW TRUCK ACT 1973 21

Clause 14 Act amended in pt 3 22

This part amends the *Tow Truck Act 1973*. 23

6 Criminal Code, section 328A (Dangerous operation of a vehicle)

7 Road Use Management Act, section 83 (Careless driving of motor vehicles)

8 Road Use management Act, section 85 (Racing and speed trials on roads)

*Police Powers and Responsibilities and Another Act
Amendment Bill 2002*

Clause 15	Amendment of s 38 (Exemptions)	1
	Section 38—	2
	<i>insert—</i>	3
	‘(2) However, even though a person is exempt under a regulation from	4
	stated provisions of this Act, a regulation made under section 43 for the	5
	purposes of the <i>Police Powers and Responsibilities Act 2000</i> , chapter 2,	6
	part 6, division 2 ⁹ applies to the person.’.	7
Clause 16	Amendment of s 43 (Regulation making power)	8
	(1) Section 43(2)(r) to (u)—	9
	<i>renumber</i> as section 43(2)(s) to (v).	10
	(2) Section 43(2)—	11
	<i>insert—</i>	12
	‘(r) the amounts to be charged for towing and keeping vehicles	13
	impounded under the <i>Police Powers and Responsibilities Act</i>	14
	<i>2000</i> , chapter 2, part 6, division 2; ¹⁰ ’.	15
		16

9 *Police Powers and Responsibilities Act 2000*, chapter 2 (General enforcement powers), part 6 (Powers relating to vehicles, traffic and animals), division 2 (Vehicle impounding powers for prescribed offences)

10 *Police Powers and Responsibilities Act 2000*, chapter 2 (General enforcement powers), part 6 (Powers relating to vehicles, traffic and animals), division 2 (Vehicle impounding powers for prescribed offences)