

LEGAL ADVICE

If you need legal advice, there are a number of free legal services available:

Caxton Legal Centre

Tel: (07) 3214 6333

www.caxton.org.au

Legal Aid Queensland

Tel: 1300 651 188 or 1300 650 143 for Indigenous information line

www.legalaid.qld.gov.au

To find your nearest community legal centre providing free legal advice, visit the **Community Legal Centres Queensland** website at www.communitylegalqld.org.au

If you are between 10 and 18 years of age, the **Youth Advocacy Centre** can provide free advice about a variety of legal matters. Representation is available for those 17 years and under. The centre's website has useful information on parties and out-of-control events.

Tel: (07) 3356 1002

www.yac.net.au

Caxton Legal Centre's **Police Powers - Your Rights** publication is available online and contains information about move-on powers, police searches, arrest and going to court. If you have to go to court, also view the video about this on the Caxton Legal Centre website.

This information is intended only as a guide. It is not a substitute for legal advice.

The law is complex and constantly changing. The information in this brochure is based on the law as at 30 July 2018. You should always get specific legal advice if you are charged with any offences.

KNOW YOUR RIGHTS

- If approached by police you need only give your name, address and, if under 18, your age.
- You have the right to remain silent after providing those details.
- You do not need to go to the police station unless you have been arrested or detained.
- There is no such thing as an off-the-record interview. Always ask to contact a lawyer before a police interview.
- Ask to be allowed to make a phone call to your family or a lawyer if you are arrested. If this is refused, take note of the name of the officer involved and tell your lawyer. Your phone may be taken off you if you are arrested. So, before you go to Schoolies, find out who you should contact in case you need a lawyer's help at the watch-house.
- Do not give an interview until you have received proper legal advice from a lawyer.
- In some cases, the Queensland Police Service (QPS) can issue a ticket called an 'infringement notice' for a certain type of public nuisance offence, a public urination offence, and a related offence for obstructing police or disobeying a police direction. Under such a ticket, you automatically get a fine (of 1 to 6 penalty units). If you pay the fine within 28 days, you do not have to go to court and no criminal history is recorded. If you dispute the ticket, you can elect to go to court for a contested hearing. However, you should be aware that, if you are found guilty or change your mind and decide to plead guilty, you will also have to pay the offender levy (\$123 in the Magistrates Court) in addition to any penalty imposed. If you lose your case, you may also get a criminal history. More details are available on the QPS website. For more information about how matters are handled under the Youth Justice Act in the Childrens Court, see the legal information section on the Youth Advocacy Centre's website.

Schoolies Week ...

what you need to know about the law

Have fun at Schoolies week and don't get caught up with the law. Some behaviour that you might think is okay can actually be against the law, especially when you are in a public place. Below is a list of some common offences that could get you in trouble. Fines for offences are calculated using a formula where 1 penalty unit equals \$130.55 (as of 1 July 2018).

Remember, having a criminal history can affect your future employment and travel opportunities.

ASSAULT

Street brawls, especially fights that break out between partygoers outside nightclubs, or between people who are drunk in public places, can result in a person being charged with common assault.

The offence of assault requires force to have been used either directly (e.g. by punching or pushing with a hand) or indirectly (e.g. by throwing a drink) against a person. An assault can also be committed by threats and gestures.

Maximum penalty: 3 years jail (if you are found guilty of being drunk and in a public place when you commit this offence, you will also have to do community service as part of the penalty). Where the assault is very serious (e.g. assault on someone over 60 years or on a disabled person), the penalty can increase to 7 years.

Assaulting or obstructing a police officer is a separate offence and is treated very seriously by the courts. Obstructing a police officer includes resisting arrest.

Maximum penalty: 40 penalty units or 6 months jail if charged under the Police Powers and Responsibilities Act; or 60 penalty units or 12 months jail if the offence occurs in or near licensed premises such as a pub; but if charged under the Criminal Code with serious assault of a police officer, 7 years jail, and up to 14 years if the offence involves spitting on or biting a police officer.

BUYING AND DRINKING ALCOHOL

It is an offence to pretend to be 18 to buy alcohol.

It is normally an offence to drink alcohol in a public place (e.g. on roads and in parks) and it is illegal to be drunk in public.

Maximum penalty: 2 penalty units for being drunk in a public place.

It is an offence for a child to possess or consume alcohol on licensed premises.

Maximum penalty: 25 penalty units

CONTRAVENING A POLICE DIRECTION

Failure to comply with a police direction or requirement without a reasonable excuse is an offence.

The offence also covers cases of disobeying move-on directions issued under the Police Powers and Responsibilities Act.

Maximum penalty: 40 penalty units; 60 penalty units if the offence occurs in or near licensed premises and some other places.

PUBLIC NUISANCE

Public nuisance can occur in a number of ways, including where a person behaves in:

- a disorderly way
- an offensive way (this includes using offensive or abusive language)
- a threatening way (including using threatening language)
- a violent way

and this behaviour interferes with, or is likely to interfere with, another person's passing through or enjoyment of a public place.

A public complaint about a nuisance being committed is NOT required, so police can charge a person if they feel a public nuisance has been committed.

Maximum penalty: 10 penalty units or 6 months jail; but it may be 25 penalty units or 6 months jail if the offence occurs in or near licensed premises, and involves being drunk or disorderly or creates a disturbance.

FAKE IDs

It is illegal to pretend that you are 18 years old (or more) if you are not yet 18 in order to enter licensed premises (e.g. a pub or club).

Altering an ID card to make it appear as though you are 18 or older or giving someone else a fake ID is also against the law.

Maximum penalty: penalties relating to misuse of IDs vary from 25 to 40 penalty units.

RAPE

Rape can include any level of penetration of another person's genitals by any part of your body or any object without their consent.

Consent means consent given freely and voluntarily by a person with the understanding and capacity to give that consent.

There have been cases where rape charges have been laid after one of the parties was found to have been too drunk to consent.

Maximum penalty: life imprisonment; for attempted rape 14 years jail.

SEXUAL ASSAULT AND HARASSMENT

Sexual assault is an offence.

Maximum penalty for sexual assault: 10 years jail and up to life imprisonment for particularly serious cases.

Sexual harassment is unwelcome sexual attention directed towards another person such as unwanted touching, dirty jokes or requests for sex. It is illegal. More information is available at www.adcq.qld.gov.au.

It is illegal to film or photograph people having sex without their consent. Loading such material onto the internet can also lead to criminal charges.

Maximum penalty for recording private acts without consent: 2 years jail.

WILFUL EXPOSURE

Flashing is against the law.

Maximum penalty: 2 penalty units; or in aggravated circumstances (e.g. deliberately flashing to offend someone) 40 penalty units or 1 year jail.

PUBLIC URINATION

It is an offence to urinate in public.

Maximum penalty: 2 penalty units; 4 penalty units if the offence occurs in or near licensed premises.

OTHER OFFENCES

Other offences include wilful damage to property, possessing graffiti devices, trespassing, possessing illegal drugs or drug equipment, drink driving, unlicensed driving, dangerous driving, interfering with road use, unauthorised BASE jumping or abseiling, carrying a weapon (e.g. a knife) or pretending to be armed in public and causing riots or breaches of the peace.

Remember, if you cause a lot of noise with instruments or electronic sound equipment, police may end up confiscating this property and stopping you using it for a set period. They first need to have given you a warning to stop making the noise. So, be aware of the consequences of ignoring such a direction.

Take care to avoid getting into arguments with police.