



Queensland

Classification of Publications (Billboard Advertising) and Other Legislation Amendment Bill 2013



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Bill 2013

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2013

A Bill

for

An Act to amend the *Classification of Computer Games and Images Act 1995*, the *Classification of Films Act 1991* and the *Classification of Publications Act 1991* to regulate advertising on billboards through classification

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Classification of Publications
(Billboard Advertising) and Other Legislation Amendment Act
2013*. 4
5
6

Clause 2 Commencement 7

This Act commences on a day to be fixed by proclamation. 8

**Part 2 Amendment of Classification of
Computer Games and Images
Act 1995** 9
10
11

Clause 3 Act amended 12

This part amends the *Classification of Computer Games and
Images Act 1995*. 13
14

Clause 4 Amendment of sch 2 (Dictionary) 15

(1) Schedule 2— 16

insert— 17

billboard see the *Classification of Publications
and Billboard Advertisements Act 1991*, section
3. 18
19
20

(2) Schedule 2, definition *advertisement—* 21

insert—

(g) advertising for the computer game on a
billboard.

1
2
3

Part 3 Amendment of Classification of Films Act 1991

4
5

Clause 5 Act amended

6

This part amends the *Classification of Films Act 1991*.

7

Clause 6 Amendment of s 3 (Definitions)

8

(1) Section 3—

9

insert—

10

billboard see the *Classification of Publications
and Billboard Advertisements Act 1991*, section
3.

11
12
13

(2) Section 3, definition *advertisement—*

14

insert—

15

(h) advertising for the film on a billboard.

16

Part 4 Amendment of Classification of Publications Act 1991

17
18

Clause 7 Act amended

19

This part amends the *Classification of Publications Act 1991*.

20

Clause 8	Amendment of long title	1
	Long title, after ‘publications,’—	2
	<i>insert</i> —	3
	billboard advertisements,	4
Clause 9	Amendment of s 1 (Short title)	5
	Section 1, after ‘Publications’—	6
	<i>insert</i> —	7
	<i>and Billboard Advertisements</i>	8
Clause 10	Amendment of s 3 (Definitions)	9
	(1) Section 3—	10
	<i>insert</i> —	11
	billboard —	12
	(a) means an outdoor structure designed to—	13
	(i) display advertising to the public; and	14
	(ii) be viewed from a distance; and	15
	(b) includes a structure that—	16
	(i) is moving or may be moved; or	17
	(ii) can display digital images.	18
	billboard advertisement means any form of advertising displayed on a billboard.	19 20
	billboard owner means a person who—	21
	(a) owns, or has control of advertising displayed on, a billboard; and	22 23
	(b) allows advertising to be displayed on the billboard.	24 25
	branch see section 11G.	26

<i>classification zone</i> means any 1 of the zones mentioned in section 11M.	1 2
<i>general classification zone</i> means an area of the State to which a general classification zone applies under section 11N.	3 4 5
<i>geographical classification zone levy</i> see section 11ZB(1).	6 7
<i>panel</i> see section 11L(1).	8
<i>parental guidance classification zone</i> means an area of the State established by the Minister as a parental guidance classification zone under part 2B, division 4.	9 10 11 12
<i>proposed billboard advertisement</i> see section 11V(1).	13 14
<i>mature accompanied classification zone</i> means an area of the State established by the Minister as a mature accompanied classification zone under part 2B, division 4.	15 16 17 18
<i>mature classification zone</i> means an area of the State established by the Minister as a mature classification zone under part 2B, division 4.	19 20 21
(2) Section 3, definition <i>advertisement</i> —	22
<i>insert</i> —	23
(g) advertising for the publication on a billboard.	24 25
(3) Section 3, definition <i>publication</i> —	26
<i>insert</i> —	27
(d) a billboard advertisement.	28
Clause 11 Insertion of new pt 2B	29
After part 2A—	30
<i>insert</i> —	31

Part 2B	Classification of billboard advertisements	1 2 3
Division 1	Preliminary	4
11F Application of pt 2B		5
(1)	This part applies—	6
(a)	to a billboard advertisement; and	7
(b)	despite any other Act.	8
(2)	This part has no effect to the extent it is inconsistent with a law of the Commonwealth.	9 10
Division 2	Establishment of branch	11
11G State billboard geographical classification zoning branch		12 13
	The State billboard geographical classification zoning branch (the <i>branch</i>) is established.	14 15
11H Manager of branch		16
(1)	The chief executive must appoint a manager for the branch.	17 18
(2)	The manager is to be employed under the <i>Public Service Act 2008</i> as a senior executive.	19 20
(3)	A person is eligible to be appointed as the manager of the branch if the person has qualifications and experience appropriate to the functions of the branch.	21 22 23 24

11I Other staff of branch	1
The chief executive may employ other staff for the branch under the <i>Public Service Act 2008</i> .	2 3
11J Powers of manager	4
The manager has the powers necessary or convenient to perform—	5 6
(a) the manager’s functions under this part; and	7
(b) the branch’s functions under this part.	8
11K Functions of branch	9
The branch’s functions are to—	10
(a) assist the panel to perform its functions under this part; and	11 12
(b) collect the geographical classification zone levy; and	13 14
(c) establish and maintain a database of information about classification zones; and	15 16
(d) perform any other function given to the branch under this part.	17 18
Division 3 Establishment of panel	19
11L State billboard geographical classification zoning panel	20 21
(1) The Minister must establish the State billboard geographical classification zoning panel (the <i>panel</i>) to make recommendations to the Minister and the chief executive under this part.	22 23 24 25
(2) The Minister may call for nominations for appointment to the panel from entities that the Minister considers can appropriately represent	26 27 28

community expectations about billboard advertisements.	1 2
(3) The panel must consist of—	3
(a) the chief executive; and	4
(b) at least 4 other members appointed by the Minister.	5 6
(4) A member of the panel, other than the chief executive, is to be paid the fees and allowances decided by the Governor in Council.	7 8 9
Division 4	
Geographical classification category zones	10 11 12
11M Classification zones	13
The following zones may, under this division, apply to, or be established for, an area of the State for the purposes of regulating billboard advertising for the area—	14 15 16 17
(a) a general classification zone;	18
(b) a parental guidance classification zone;	19
(c) a mature classification zone;	20
(d) a mature accompanied classification zone.	21
11N General classification zone applies generally	22
The general classification zone applies to every area of the State, other than an area established as another classification zone by the Minister under this division.	23 24 25

11O Other classification zones	1
The Minister may, under this division, establish an area of the State as 1 of the following classification zones—	2 3 4
(a) a parental guidance classification zone;	5
(b) a mature classification zone;	6
(c) a mature accompanied classification zone.	7
11P Parental guidance classification zone	8
The Minister may only establish an area of the State as a parental guidance classification zone if the whole of the area is at least 15km from facilities frequented by children and families.	9 10 11 12
<i>Examples of facilities frequented by children and families—</i>	13 14
schools, bus stops, train stations, hospitals, shopping centres, sporting facilities, religious centres	15 16
11Q Mature and mature accompanied classification zones	17 18
The Minister may only establish an area as a mature classification zone or a mature accompanied classification zone if—	19 20 21
(a) the area is not a parental guidance classification zone; and	22 23
(b) the whole of the area is at least 20km from facilities frequented by children and families.	24 25 26
11R Panel to recommend zones for areas	27
(1) The Minister may ask the panel—	28
(a) to consider whether an area of the State should be established as a classification	29 30

zone, other than a general classification zone; and	1 2
(b) to make a recommendation about a classification zone for an area to the Minister before a particular day.	3 4 5
(2) The panel may—	6
(a) consult with the relevant local government; and	7 8
(b) consult with any other person it considers appropriate; and	9 10
(c) give the Minister any recommendation it considers appropriate.	11 12
11S Minister’s decision about zones	13
(1) As soon as practicable after receiving a recommendation from the panel under section 11R, the Minister must decide whether to accept the recommendation.	14 15 16 17
(2) If the Minister decides not to accept the panel’s recommendation, the Minister must provide a statement of reasons for the decision to the panel.	18 19 20
(3) If the Minister decides to establish an area as a classification zone, the Minister must publish a map showing the area and the classification zone of the area on the department’s website.	21 22 23 24
(4) A classification zone applies to an area from the day the map of the area is published on the department’s website.	25 26 27
11T Classification zone database	28
(1) The manager of the branch must establish and maintain a database that includes information about—	29 30 31

(a)	areas the Minister has asked the panel to consider under section 11R(1); and	1 2
(b)	recommendations made by the panel under section 11R(2); and	3 4
(c)	classification zones established by the Minister under section 11S.	5 6
(2)	The manager may keep the database in the form the manager considers appropriate.	7 8
(3)	The chief executive must ensure—	9
(a)	the branch has the information necessary to establish a database under subsection (1); and	10 11 12
(b)	a copy of the database may be viewed by the public on the department’s website.	13 14
Division 5	Classification of billboard advertisements	15 16
11U Purpose of div 5		17
(1)	The purpose of this division is to ensure the content of billboard advertisements displayed in areas frequented by children and families is appropriate for children and families.	18 19 20 21
(2)	The purpose is achieved by classifying advertising before it is displayed on billboards.	22 23
11V Application about proposed billboard advertisement		24 25
(1)	A person who proposes to display advertising on a billboard (a <i>proposed billboard advertisement</i>) must apply to the chief executive to decide an appropriate classification for the proposed billboard advertisement.	26 27 28 29 30

(2)	The application must include a copy of the proposed billboard advertisement.	1 2
11W Panel to consider proposed billboard advertisement		3 4
(1)	As soon as practicable after receiving an application under section 11V, the chief executive must ask the panel to recommend an appropriate classification zone to apply to the proposed billboard advertisement.	5 6 7 8 9
(2)	The panel must make a recommendation to the chief executive within 14 days after receiving the application.	10 11 12
11X Chief executive to decide classification		13
(1)	The chief executive must decide whether to accept the panel's recommendation under section 11W within 14 days after receiving the recommendation.	14 15 16 17
(2)	If the chief executive decides not to accept the panel's recommendation, the chief executive must provide a statement of reasons for the decision to the panel.	18 19 20 21
(3)	The chief executive must give written notice of the following to the person who made the application under section 11V—	22 23 24
(a)	the chief executive's decision about the application;	25 26
(b)	the reasons for the decision.	27
11Y Decision to be consistent with Commonwealth classification		28 29
(1)	This section applies to an application under section 11W if—	30 31

- (a) the application relates to a proposed billboard advertisement for a publication, film or computer game; and
 - (b) the publication, film or computer game has been classified under the Commonwealth Act.
- (2) Despite section 11X, the chief executive must decide the application in a way that is consistent with the classification for the publication under the Commonwealth Act.
- Example for subsection (2)—*
- An application is made relating to a proposed billboard advertisement for a film that is classified under the Commonwealth Act as appropriate for a mature audience. The chief executive could decide the advertisement is appropriate for display in a mature classification zone.

11Z Offence for advertising in particular zones

- (1) This section applies to a billboard advertisement that is located in, or moving within, a general classification zone or parental guidance classification zone.
 - (2) A person must not display, or cause the display of, a billboard advertisement in the classification zone if the advertisement—
 - (a) has been classified under this division as appropriate for a mature classification zone or mature accompanied classification zone; or
 - (b) has not been classified under this division.
- Maximum penalty—20 penalty units.
- (3) It is a defence to a prosecution for an offence under subsection (2) for the defendant to prove that the defendant was instructed to display the

billboard advertisement in the classification zone	1
by another person who—	2
(a) had, or purported to have, authority to	3
display the billboard advertisement in the	4
classification zone; and	5
(b) stated the billboard advertisement complied	6
with this division.	7

Division 6	Geographical	8
	classification zone levy	9

11ZA Definitions for div 6	10
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In this division—	11
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<i>leviable billboard</i> means a billboard located in,	12
or moving within, a mature classification zone or	13
mature accompanied classification zone.	14

<i>net revenue</i> , for a billboard, means the total	15
amount of revenue received by the billboard	16
owner for advertising displayed on the billboard	17
less the tax amount for the billboard.	18

<i>tax amount</i> , for a billboard, means the amount of	19
tax paid or payable by the billboard owner in	20
relation to the billboard, including a tax under the	21
<i>A New Tax System (Goods and Services Tax) Act</i>	22
<i>1999 (Cwlth).</i>	23

11ZB Monthly geographical classification zone	24
levy	25

(1) A billboard owner is liable to pay the State a levy	26
(the <i>geographical classification zone levy</i>) for a	27
month if, during the month, the billboard owner	28
had at least 1 leviable billboard.	29

- (2) The amount of the geographical classification zone levy for a month is 10% of the net revenue received for each leviable billboard in the month. 1
2
3

11ZC Calculating levy 4

- (1) On the first day of a month (the *accounting month*), a billboard owner must give the manager of the branch the following information for the previous month— 5
6
7
8
- (a) the number of leviable billboards the billboard owner had during the previous month; 9
10
11
- (b) the net revenue received for the leviable billboards in the previous month. 12
13
- (2) Before the last day of the accounting month, the manager of the branch must give written notice to the billboard owner of— 14
15
16
- (a) the amount of the geographical classification zone levy payable by the owner for the previous month; and 17
18
19
- (b) the day by which the amount must be paid. 20

11ZD Payment and recovery of levy 21

- (1) The amount payable, for a month, by the billboard owner under section 11ZC(2)(a) must be paid to the branch. 22
23
24
- (2) All amounts received by the branch must be paid into the consolidated fund. 25
26
- (3) Any amounts payable under section 11ZC(2)(a) that remain unpaid after the payment date may be recovered as a debt payable by the billboard owner to the State. 27
28
29
30
- (3) In this section— 31

	<i>payment date</i> means the day notified to the billboard owner under section 11ZC(2)(b).	1 2
Clause 12	Amendment of pt 3, hdg (Offences)	3
	Part 3, heading, after ‘Offences’—	4
	<i>insert</i> —	5
	for publications and photographs	6
Clause 13	Insertion of new s 28A	7
	Part 4—	8
	<i>insert</i> —	9
	28A Additional power of inspector to remove billboard advertisements	10 11
	(1) This section applies if—	12
	(a) a complaint is made to the chief executive about a billboard advertisement; and	13 14
	(b) the chief executive reasonably believes that the advertisement does not comply with section 11Z.	15 16 17
	(2) The chief executive may direct an inspector to remove the billboard advertisement from any place that the inspector may lawfully enter or board.	18 19 20 21
Clause 14	Amendment of s 39 (Protection of officials from liability)	22
	Section 39(2), definition <i>official</i> , paragraph (d)—	23
	<i>omit, insert</i> —	24
	(d) a person employed in the branch; or	25
	(e) a member of the panel; or	26

- (f) a public service employee assisting a person
mentioned in paragraph (a), (c), (d) or (e)
above. 1
2
3

Authorised by the Parliamentary Counsel