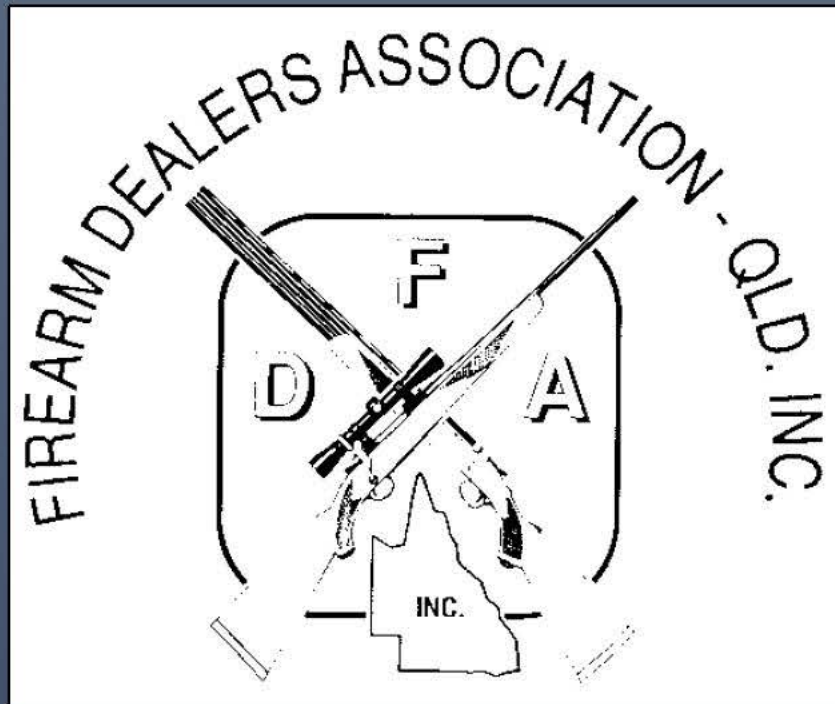


Queensland Community Safety Bill 2024

Submission No: 115
Submitted by: Firearm Dealers Association - Qld Inc
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:



SUBMISSION

QUEENSLAND COMMUNITY SAFETY BILL 2024

FIREARM DEALERS ASSOCIATION – QLD INC

[REDACTED]

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PHONE: [REDACTED] (SECRETARY)

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Introduction

The Firearm Dealers Association – Queensland Inc. (FDAQ) was established in 1983. It is an industry body, whose members are required to be the holders of a current Firearm Dealers, Armourers or Theatrical Ordnance Suppliers Licence as issued by the Weapons Licensing Branch of the Queensland Police Service.

Members are located in every area of the State. A quarterly meeting is held in Brisbane and regular newsletters advise members of industry, technical and legislative developments.

FDAQ members are daily in touch with the news and needs of shooters throughout Queensland and via our importer/supplier members, the rest of Australia.

Author

This submission is prepared by the Executive Committee of Firearm Dealers Association - Qld Inc.

Inquiries may be directed to the Secretary at the mailing address on the front page or to email: [REDACTED]

Jade Cleaver – President
Jan Linsley - Secretary

Overview

Much of the proposed legislation is directed towards defining more offences and applying more and greater penalties to facilitate the declaration of individuals as not “fit and proper” to hold a firearm. The inclusion of relatively minor offences in the legislative net will have the effect of reducing the number of firearms in the community, reducing the number of licensed shooters and reducing the number of firearms dealers in the trade.

Most of what the legislation will regard as a crime which will preclude a person from having a firearm, has nothing to do with firearms. Few of them have much to do with violence. There is no correlation between the proposals and an increase in public safety. Indeed, there are no statistics to indicate that there is any risk to public safety from the holders of legitimate firearms licences.

According to the Explanatory Notes which accompany the Bill, ***Queensland has experienced an increase of more than 60% in the number of registered firearms within the community since 2013, with the number of registered firearms increasing to over 1 million firearms in early 2024. The increased availability of firearms within the community grants further opportunities for these deadly weapons to be misappropriated.***

The declaration of more people as unsuitable and the proposed longer exclusion periods does nothing to address firearms theft or increase penalties for firearms theft. In fact, the Explanatory Notes don't bear much relevance to the proposals at all.

It is noted that in the reading speech a reason for this legislation is the increase in stolen firearms. The FDAQ and other shooting groups have been calling for tougher penalties on people stealing firearms for at least the last ten years. These requests have been ignored,

They have also been ignored in this current legislation. If this legislation is really about stolen firearms being used in crimes, then why has the Government not proposed a change and increase in penalty for this crime as a deterrent for criminals? They have increased penalties in all other areas. Missing this legislation change is not consistent with the Reading Speech.

The rate of firearms reported as stolen has also increased by at least 21% within the last decade, with over 779 firearms reported stolen in 2023. Coupled with continuing challenges in recovering stolen firearms and the longevity of a functioning firearm, there is a corresponding increase in the risk that these weapons come into the possession of high-risk individuals and are used in the commission of an offence.

We see no evidence to show how many legally owned firearms have been diverted and used in the commission of offences. Making the statement doesn't prove its validity. If evidence there be, why is not provided along with the statement?

The risk to the community is apparent when considering the increased number of reported offences involving firearms in Queensland, which has risen at least 30% in the last decade, with approximately 3,352 reported firearm offences in 2023.

Mention about an increase in reported weapons offences and a review of the statistics provided to our association indicates that gel blasters, legal for purchase as a toy, have been used increasingly in the commission of offences.

How many of the 3,352 reported firearm offences were committed using stolen firearms? How many stolen firearms were used, bearing in mind that most offences are multiples, ie one incident will usually result in several charges?

Indicating that a higher number of legally held firearms in the community results in more firearms theft and more offences is unfounded and supported by nothing more than a political statement. We note also that the flawed rationale used to explain the proposals is very similar to that used in Western Australia when trying to convince the public of the increased safety benefits of removing private property from the hands of those who have proven their ability to safely use them while simultaneously obeying the restrictive legislation passed by a government hell bent on reducing the number of firearms and licences in that state.

General Comments

The complex changes to the Weapons Act will require more work for Weapons Licensing Branch to administer through its evaluation processes on licences and the character of licence applicants. We have been informed the temporary work force allocation in relation to Weapons Licensing staff increases will reduce in June this year. The work force allocation needs an extension of these crucial staff in order to keep Weapons Licensing running at the current standard of operation, and most importantly an immediate increase in the permanent staff area will be required to administer these new proposals. It will be crucial to ensure the continued accurate registration of firearms, implementation of new legislation and ensuring the up-to-date output that will be required to feed the new National Firearms Register with accurate information. This is not mentioned, but to ignore the funding required to administer these changes would be a greater public safety issue than anything the proposals are intended to address.

FDAQ has concerns that all of the WLB paperwork and forms will be updated at the time of the legislation implementation. It appears the legislative proposals have been and continue to be rushed (eg the short consultation period). No assurances have been received from Government and there has been no consultation (or even mention) of consultation or viewing of the new forms that will be required.

An example is the Antique Registration form which currently does not include a declaration from clients that they do not have a Firearms Prohibition Order when collecting their unregistered antique firearm.

There is no way for an antiques or firearms dealer to check the FPO status of a client. Because no PTA is necessary for items that are of obsolete calibre a declaration made in writing by the purchaser is the only protection the seller will have.

A similar declaration will be needed for gel blasters which have transitioned from toys to replicas. Traders will need a declaration since there is no way for a FPO status check.

All such forms will need to be reviewed by industry to ensure best practice and public safety. The process of having correct forms available to a trader will also educate the public, with traders being the front line of administering legislative changes to the Weapons Act.

Has funding been approved to enable these forms to change? At a time when simple changes on the application form to suit best practise or educate the public on what is to go with what licence application can't be made and when links to licence guides on how to renew a license are broken, funding needs to be allocated to ensure that the new legislation is reflected in each application process. Also needed is a public education guide to ensure consistency and compliance.

Proposed Amendments –

Police Powers & Responsibilities Act

Chapter 21A – Police may order the removal of online (social media) posts and may apply a penalty if the content is not removed whether or not the police followed “procedural fairness”

Section 26B – Inclusion in summary offences of publishing offensive content on social media (journalists excluded), even if the offence itself was not charged – 3 years gaol.

Section 69 – Publishing content can be regarded as “going armed so as to cause fear” – 3 years gaol.

Section 328A - Publishing dangerous conduct of a motor vehicle (hooning or bad driving) is a summary offence – 5 years gaol.

Section 335 – Publishing an occasion of common assault is a summary offence – 4 years gaol.

Section 339 – Publishing an occasion of assault occasioning bodily harm is a summary offence – 9 years gaol.

Section 419 – Publishing an occasion of burglary is a summary offence – 16 years gaol.

These amendments are far too wide-ranging and will have unintended consequences on genuinely innocent bystanders. Publishing occasions of assault will interfere with police reliance on phone and dashcam footage. The legislation does not allow for any discretion in sentencing. The sentences are not “up to” but absolute and will prevent individuals from coming forward with information about crimes that have been witnessed. How often are crimes solved by community involvement and provision of information? Nearly always!

Section 715 – disposal of weapons, if not made within 3 months to the owner, are forfeit to the state. The owner has to prove they own the firearms and with the Commissioner’s register in its current state and the propensity of Weapons Licensing Branch to simply ignore requests, how can an owner prove ownership in the time allowed?

Weapons Act

Firearms Prohibition Orders

Division 1 – There are a whole new series of offences: Class A, B and C if the offender is armed. A person subject to a Firearms Prohibition Order in Queensland or another state is now a disqualified person. How is a supplier to know if a customer from another state has a FPO applied in that state? This legislation precedes the technology available in all states.

Section 10B – Fit and Proper provisions – A disqualified person is not eligible for a licence for 10 years. A person with a DVO against them is not eligible for 5 years – both are considered disqualified and both apply whether in Qld or another state. How is a dealer to know which customers are disqualified?

Section 10C – A dealer’s associate is not fit and proper if convicted of one of these new offences within the previous 10 years. This is retrospective legislation and there is no legislated process or time frame for a dealer to remove an associate to maintain compliance with the Act. If something goes wrong in an associate’s life and they are considered to be not fit and proper, what time frame does a dealer have to remove them from the dealership, to maintain trading and the secure storage of firearms? Under the proposed definition this could go as far as an employee or even a cleaner because they hold a relevant position.

The legislation requires revocation of a dealer’s license, not suspension for an associate not being fit and proper. A legislated time frame to remove the associate from the premises and dealership to maintain continuity of the business, must be included. The dealer or other associations should not be held accountable and lose everything, even temporarily, if one associate or employee becomes not fit and proper.

Without access to Q Prime and Queensland Police records how is a dealer to know if one of his staff or associates has been recently convicted of, for example:

- *Receiving tainted property*
- *Habitually consorting with recognised offenders* (could be family members)
- *Crime of piracy*
- *Assaults occasioning bodily harm*

The consequences of not legislating a period of time for a dealer to address the issue after notification from WLB could result in a catastrophic public safety incident where QPS has to store thousands of firearms they do not have the capacity for through the revocation of a dealer's license. We are aware that Police Stations Queensland wide have more stored firearms than most have the capacity for.

QPS should not be burdened with this problem through poorly written legislation, when a notification process and a time to rectify the issue could be legislated. Public safety would not be compromised and firearms would be secured with no additional burden to QPS firearms storage facilities.

Section 27B – There are a series of amendments relating to serious offences, firearms prohibition orders and dealers' licences and associates. Serious offences committed by a dealer's associate are now included as reasons for revoking a dealer's licence. This may be a family member, so not only is the associate guilty, but the whole family will have FPOs with the subsequent 10-year exclusion period.

Section 53 – Relates to excluded persons not being permitted to use a range, but how is a Range Operator or Range Officer to know if someone is excluded? Only if the person honestly completes the approved form (form 33). This applies to interstate shooters too.

Section 67 – A person with a Firearms Prohibition Order can't have replicas, which includes toys, gel blasters, etc.

Section 93 – We now have fit and proper persons, appropriate persons, persons of good repute and disqualified persons! That's going to get very confusing.

We note with concern that the Commissioner of Police and a court can issue a Firearms Prohibition Order. Whilst we understand that it may be necessary in an emergency to get a FPO from police, rather than awaiting a court decision, the police decision should be reviewed by a court as soon as possible.

A further concern is that police can apply a FPO or a court ***based on any other matter or information which indicates the possession of a firearm by the individual would be likely to pose a risk to public safety or security.***

This is a very broad area where the issue of this FPO even for 60 days, would result in a LIFE BAN for a firearms or dealers license because the FPO renders the person as not fit and proper to obtain a licence.

Section 10B – Fit and Proper provisions – A disqualified person is not eligible for a licence for 10 years. A DVO is not eligible for 5 years – both are considered disqualified and both apply whether in Qld or another state.

Judicial Review Act

Clause 44 – No reasons need to be given for declaring a person to be not fit and proper or for applying a firearms prohibition order.

This defies the very basics of our right to information. How can a person have an unjust declaration removed if he doesn't know why the declaration was applied?

Explosives Act

Section 43A – Requires the sighting of a customer's licence AND a check of the online verification system. This applies to interstate customers as well. The technology for licence checking online is not available for all states, so how can a dealer sell ammunition to an interstate visitor?

If both the physical licence and the online verification are not done, the dealer will be penalised unless the server is down. What is the point of having a licence if a further verification is required?

We requested a solution if the licence verification system was down and not functional. This has not been delivered and the exemption if the system does not work is NOT acceptable. We believe that a QPS server never goes down, and the activity level of a sever often does not reflect the accessibility of the program.

This proposal will see dealers and other ammunition sellers charged because quite frequently, the server that houses the system will still be working but the program is down when QPS pull it off line to do work on the system. This occurs mostly on Saturdays which is very often a dealer's biggest day. A Telstra or other internet provider outage or an NBN failure in the area will leave a dealer unable to sell ammunition for several days until the NBN comes back on. This is particularly troublesome in rural areas of Queensland, where ammunition is sold by service stations, hardware stores, general stores and even a dress shop in outback Queensland.

What if the QPS Server is still running and the program is down?

What if Telstra goes down and there is no internet?

What if our "world-class" NBN goes down for the dealer's suburb for a week?

A dealer cannot know if the server is the cause of a program outage because he sees only the front face of the program.

We believe the proposed legislation does not resolve the issue of the program not being accessible by a dealer or other ammunition seller and could result in a dealer being charged because of circumstances beyond his control.

Summary Offences Act

There about 70 new charges added to **Schedule 1AA Class B serious offences**. These charges will result in rejection or revocation of a license for a period of time.

Some of These charges include

- *Unlawful assembly, riot and mutiny*
- *Riot*
- *Threatening violence*
- *Habitually consorting with recognised offenders*
- *Under section 77B, a person commits an offence if: They habitually consort with two or more recognized offenders, whether together or separately; and. They consort with each recognized offender at least once after being given an official warning in relation to the offender.*
- *Dangerous operation of a vehicle*
- *A person who operates, or in any way interferes with the operation of, a vehicle dangerously in any place commits a misdemeanor.*
- *Wearing or carrying prohibited item in a public place - a person in a public place must not wear or carry a prohibited item so that the item can be seen.*
- *A person who is in or on a vehicle that is in a public place must not wear or carry a prohibited item so that the item can be seen from the public place.*
- *Carrying or sending dangerous goods in a vehicle - a person who knowingly sends by a vehicle any dangerous goods under a false description of the goods or with a false description of the sender of the goods commits a misdemeanor.*
- *Assaults occasioning bodily harm*

Anyone convicted of these particular offences (and there are others in the proposed legislation) cannot be an associate on a dealer's licence for 10 years after the day of release, if incarcerated or after parole is finished if parole is applied after release. Likewise the person cannot hold a shooters license for 10 years, after the day of release, if incarcerated or after parole is finished if parole is applied after release.

In a practical sense, if the legislation is passed, all dealers will have to immediately check their associates that none of them have been convicted of one of these crimes, no matter however minor, in the last 10 years. Otherwise, their business could be immediately suspended when the law is changed. Associates can be and often are family members. FPOs could be applied to all members of the family.

The associate of a dealer is defined in the Weapons Act

An Associate of a licensed dealer or an applicant for a dealer's licence, means a person, other than a financial institution, who—

- (a) *holds or will hold a relevant financial interest in the business or proposed business of the licensed dealer or applicant; or*
- (b) *is or may be entitled to exercise a relevant power, whether in the person's own right or for someone else, in the business or proposed business of the licensed dealer or applicant; or*
- (c) *holds or will hold a relevant position, whether in the person's own right or for someone else, in the business or proposed business of the licensed dealer or applicant.*

Unintended Consequences

Firearms Prohibition Orders can be applied to associates of individuals (not to be confused with a Dealers Associate). Then this would be a LIFE BAN from obtaining a shooters license or a dealer's license. Every FPO issued for any reason for any length of time disqualifies the person for life because the person is then regarded as not fit and proper to hold a licence.

If a person with a firearms licence accepts a Facebook friend who has an FPO, he will lose his licence and have a FPO applied to himself.

Under section 77B, a person commits an offence if: ***They habitually consort with two or more recognized offenders, whether together or separately; and. They consort with each recognized offender at least once after being given an official warning in relation to the offender.*** This can be a family member or close friend and will result in a FPO for the offence of marriage, birth or friendship.

Prohibited items must not be carried in a public place in such a manner as to be seen. Many people carry pocket knives in a pouch on a belt. This can result in a FPO being applied. Likewise if a prohibited item (eg pocket knife) is left in a car and is visible from the outside.

The definition of a public place is so broad that it includes just about everywhere except a private dwelling.

141E Matters to consider for making firearm prohibition orders—adults

For this section, an individual is an associate of a recognised offender if the individual—

- (a) has a romantic or familial relationship with the offender; or*
- (b) associates with the offender in a way that involves seeking out or accepting the offender's company, whether the association happens in person or in another way, including, for example, electronically.*

This can include Facebook friends and posts. Will it also include electronic transfer of funds in payment of an account? Common sense says no, but there isn't much common sense in most of these proposals.

141Y Acquiring, possessing and using firearms and firearm related items

(firearm includes an antique firearm and a **replica** of a firearm, which includes gel blasters)

A seller of gel blasters will only be able to sell gel Blasters and related gel blaster parts to a licensed shooter because a current shooters licence is the only way to tell.

There is no ability for a seller of firearms, replicas, gel blasters etc to check whether someone has an FPO. A person signing a declaration or stating they don't have an FPO will not prevent a seller from being charged, because there are no provisions in the legislation.

When the legislation becomes law, a person with a FPO (applied retrospectively for 10 years) who has a replica or gel blaster, faces 13 years imprisonment.

141Z Supply of firearms and firearm related items

Firearm includes an antique firearm and a replica firearm.

A person must not supply a firearm or firearm related item to an individual subject to a firearm prohibition order if the person knows the individual is subject to the order.

Maximum penalty—

(a) for a firearm—500 penalty units or 13 years imprisonment; or

(b) for a firearm related item—200 penalty units or 5 years imprisonment

A person selling gel blasters or parts to a person with a FPO faces 5 years imprisonment.

Recommendations

Extension

The proposed legislation encompasses amendments to so many Acts of Parliament that it is not possible to analyse it all in the amount of time allowed for submissions. The consultation period needs to be extended for at least three months.

The legislation should have been shown to and discussed by the Ministerial Forum as has been promised repeatedly with all legislation relating to firearms.

Licence verification system - Weapons Act, section 43A

(b) if a verification system is prescribed by regulation for the licence or authority and is available for use—the seller has verified the validity of the licence or authority using the verification system.

For this section, a verification system is available for use if the server for the system is operational.

Proposed Amendment

For this section, a verification system is available for use and the service is functioning properly for the seller to utilise at the time of sale.

Review for consistency

Have all of the new criminal offences been reviewed to ensure consistency with the Rehabilitation of Offenders Act 1986?

An assault occasioning bodily harm is an assault that causes the victim harm that interferes with their health or comfort. This may be something as minor as a bruise or scratch. Police sources indicate that this is very common and currently incurs a fine of \$150. They have advised that they don't believe that AOBH - Assaults Occasioning Bodily Harm, should be listed with other offences that would result in a FPO.

The Dealers Association would like assurance that everyone's rights have been taken into account and that the Weapons Act is consistent with all other legislation. Exclusion from firearms ownership should have an appropriate threshold.

Effects on primary production

Also to be taken into account in this area for statewide consideration is the effect on rural employment through exclusion of a firearms license and the impact that will have on our primary producers and their workforce.