



Submission to:

Law Reform Commission of Western Australia

Review of the *Firearms Act 1973 (WA)*

15 February 2016

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Background:

The Western Australian Farmers Federation Inc. (WAFarmers) is the State's largest and most influential rural advocacy and service organisation. Founded in 1912, WAFarmers boasts a membership of over 3,200 primary production businesses including grain growers, meat and wool producers, horticulturalists, dairy farmers, commercial egg producers and beekeepers. Collectively our members are major contributors to the \$5.5 billion gross value of production that agriculture in its various forms contributes annually to Western Australia's economy. Additionally, through differing forms of land tenure, our members own, control and capably manage many millions of hectares of the State's land mass and as such are responsible for maintaining the productive capacity and environmental wellbeing of that land and the animals that graze it.

Introduction

Firearms and the use of captive-bolt stunners on farm are necessary and important tools needed for the effective and safe management of primary production businesses. Our members, the majority of which are solely employed in the agricultural industry can also be associated with industries such as livestock logistics or veterinary services.

It is our objective, by way of this submission, to reduce burdensome legislation and regulation that surrounds the agricultural sector. We recognise there needs to be a framework surrounding firearms to facilitate their safe use, and prevent firearms from falling into the hands of the non-intended. However, there must be a balance that will allow farm operators to conduct daily business without fear of falling outside of the legislative procedures.

Further, WAFarmers encourages all law-makers to be mindful that firearms are a necessary tool of the trade for all primary producers. As it stands, the act is focused on recreational hunting, security personnel and sports shooters. Firearms can at times be used daily by primary producers, as such, this category of people must be more closely considered when legislation is being created and reviewed.

Captive Bolts

WAFarmers recommends and supports the exclusion of all types of captive-bolt stunners from the definition of the Firearms Act.

WAFarmers believes everyone has a moral obligation to treat all animals humanely. WA livestock producers take their responsibilities for welfare issues seriously and they are committed to the delivery of good animal welfare outcomes through the adoption and application of the WA animal welfare standards and guidelines.

Under the current legislation, a captive-bolt is categorised as an E2 firearm. WAFarmers are supportive of proposal 6 of the Legislation Review, and therefore is of the opinion that Western Australia should follow the lead set by all other states and remove captive-bolts from the Act.

Captive-bolts should no longer be viewed as a firearm, rather as a necessary tool for farmers, pastoralists, veterinarians, abattoir workers and all other associated industries. WAFarmers is of the view that there is minimal discrepancy between a captive-bolt and any other common power tool you may find at a work site; as such there is no longer the requirement for the Act to regulate captive bolts.

The use of captive- bolt mechanisms are considered the most efficient and safest method of humanely destroying an animal, particularly a younger animal, on-farm. Effective and humane methods of euthanasia include either shooting with a firearm or stunning with a captive-bolt stunner followed by bleeding.

Whilst the captive-bolt stunner is designed to be pressed firmly on the head before being discharged, it is not desirable to do this with a standard rifle or pistol. The captive-bolt stunner is safer since a blank cartridge is used. The operator does not have to be a marksman as the instrument's muzzle is firmly pressed against the animal's skull before firing. It must, however, be assumed that the animal has only been stunned and a follow-up method of ensuring death, such as bleeding out, is required. Blank cartridges for the captive-bolt stunner are colour-coded according to the amount of charge they contain. The manufacturer's directions should be followed on the most appropriate blank cartridge for cattle or other livestock. Regular maintenance of the captive-bolt stunner is essential for efficient stunning and the mechanism should not be used by an untrained operator.

Every farm should have access to personnel who are trained and competent and readily available to undertake the humane destruction of livestock in pain or suffering. Suitable equipment should be on hand to cease harm being experienced by the animal, all the while keeping humans in the immediate vicinity safe from potential injury. WAFarmers recognises that training in the operation of captive-bolt stunners is required, just as with any other tool of the trade. However there is no longer the requirement for the Western Australian Government to legislate this tool under the Act.

There are three types of captive bolts: penetrating, non-penetrating and free bolt. WAFarmers encourages the LRC to deregulate all categories.

a. Penetrating Captive Bolt

The bolt penetrates the skull of the animal, enters the cranium and catastrophically damages the cerebrum and part of the cerebellum. Due to concussion, destruction of the vital centres of the brain, and an increase in intracranial pressure, the animal loses consciousness. This method is currently the most effective type of stunning solely used by trained slaughtermen in abattoirs. The bolt consists of a heavy rod, usually made of stainless steel. The rod is held in position inside the barrel by a series of rubber washes. The bolt is usually not visible in a stunner that is maintained and kept in good condition. The bolt is released by a trigger pull, and is propelled by compressed air, or by a charge of a blank round ignited by a firing pin. After striking a shallow, but forceful blow on the forehead of the animal, the spring tension causes the bolt to recoil back into the barrel (AVMA, 2013, p35).

b. Non-Penetrating Mushroom head Captive Bolt

Has a wide mushroom-shaped head which delivers a knock-out blow to the skull. The penetrating stunner has a narrow bolt which is driven a short distance into the brain. This type of stunner is mainly used by slaughtermen in an abattoir especially in countries like the United Kingdom, Canada and USA, where BSE is recognised as a notifiable disease, as it does not penetrate the skull of the animal as stated above (AVMA, 2013, p.35).

c. Free-Bolt Captive Bolt

Comprises a hand-held barrel, which is tapped against the skull, which sets off the blank cartridge explosion. This particular stunner is used for emergency, in-field euthanasia of farm animals. This device differs from the above two captive-bolt variants. The device is bolt free and is only capable of firing when pressed against a surface. In other words, the captive-bolt does not discharge a bolt and needs to be held against the forehead of an animal and in some cases is potentially be safer than the use of a firearm in certain circumstances.

The captive bolt is perhaps the most versatile stunning instrument as it is suitable for use on cattle, pigs, sheep and goats as well as horses, deer and camels, and can be used anywhere in the world.

WAFarmers encourages the LRC to remove captive bolts from the Act. It is important that the Western Australian Government include all variants of captive-bolts as noted above, are exempted under any amendment to the Act. The removal of captive-bolts will have a real impact for primary producers and will immediately remove burdensome red tape from their agricultural based businesses.

Property Letters

Land owners by way of pastoralists and farmers and firearm users currently cooperate well under the existing framework. S23(10) of the Act states that it is a criminal offence to use a firearm on private land without permission being granted from the landowner. It is common place for this permission to be provided in a verbal manner. In many instances a firearm holder who possesses a property letter will take a friend on a shoot. Both firearm users will conduct themselves within the confines of the firearms licence in a safe and lawful manner. Restricting all shooters to have property letters will criminalise the social aspect to many shooting trips and instil further burdensome regulation on shooters.

Further, WAFarmers recognises that this proposal has the potential to impact its members. It is a regular occurrence for farmers to traverse many neighbouring properties to eliminate vermin i.e. pigs, rabbits and foxes. Many farmers acknowledge that people may enter the property to shoot vermin, but as long as there is no damage to property, crops or livestock it is understood to be consensual, despite no written or verbal permission being offered to each individual shooter.

The proposal to restrict a licence to a particular property and specific shooters creates burdensome regulation for regional members who are carrying out necessary land and farm management shoots in efforts to rid the area of vermin. As it stands, there is currently no other Australian State that restricts firearm licences to the property granting permission, there is no requirement for Western Australia to set this precedent.

WAFarmers does not support proposal 13 of the review. Requiring landowners to keep and maintain records of who they have issued property letters creates unnecessary red tape for property owners. Requiring landowners to undertake further administrative tasks and responsibilities is onerous and unnecessary. If the LRC is of the view that a database of property letters is to be maintained, WAFarmers is of the view responsibility of submitting and/or filing property letters should rest with property letter applicant, rather than the landowner.

Licencing Issues

The role Australia Posts plays in licencing should be one of facilitating the process and making the process easier and convenient for licence applicants. However, it is coming common place that many Australia Post stores are refusing to take photographs for firearm licences despite it being a widely advertised service Australia Post provides. For rural-based licence holders, the refusal of having a photograph taken at a local Australia Post forces the applicant to drive to a neighbouring town or the Perth metropolitan area which leads to frustration and time due to a round trip that can accumulate hundreds of kilometres. WAFarmers urges the LRC as a result of this review, to write to Australia Post and request a notification be sent to all Australia Post stores reminding them that licence photographs are a service the company provides, and to assist where possible in making this process less cumbersome than what is currently being experienced.

WAFarmers members are of the opinion that having to present in person at local police stations to renew firearms licences is cumbersome and unnecessary. As it stands, there is no provision in the Act making this regulation mandatory. In the case of many licence renewals, vehicle for example, it is a simple case of paying the fee and any associated documentation. History shows that vehicles have a higher death toll associated with them than firearms, so the renewal process of firearms are out of proportion with the impact they have on the community.

In the event a firearm is deemed unsafe, the firearm is handed in to WA Police. WAFarmers believe the licence holder should be able to replace the old firearm immediately with a new one of the same calibre and licence category. The applicant has already been assessed and approved for that particular firearm; there is no requirement for them to reapply. This creates additional paperwork for WA Police as well as the applicant, when there is no requirement for this to occur. Furthermore, primary producers may suffer adverse effects on their ability to carry out business while experiencing an additional cooling off period.

WAFarmers opposes the implementation of having firearms inspected every 5 years, or licence holders having to re-apply for their licence on a 5 year rotation as is done in other jurisdictions. This provision is not necessary and will prove to be cumbersome for primary producers, who at times have to travel vast distances to reach their local police authority. If the LRC do wish to implement such a regulation, WAFarmers recommends the use of Justice of Peace who could travel to some regional centres and properties to certify the serial numbers on firearms are still with the respective licence holder. By way of statutory declaration, this information could then be provided to the Firearms Branch of Western Australian Police.

Co-licencing Issues

WAFarmers members are often faced with losing their firearms due to confiscation when the primary licence holder suffers a sudden catastrophic injury, or death. All too often a family member tries to regain possession of the firearm which is a family heirloom and carries significant sentimental value. Furthermore, these firearms are a necessary tool for a primary producer, and it is imperative the red tape surrounding this issue is removed.

WAFarmers proposes a regulatory process surrounding the provision of transfer of a firearm(s) previously held by a primary licence holder. It proposed the primary licence be granted to an existing secondary licence holder. In the instance there is no secondary licence for the firearm(s), the guns will be surrendered to WA Police for safe storage for a period of 90 days. This time allows for a next of kin to apply for the possession firearm(s) under the same regulations of the previous licence holder.

This proposal will require collaboration from multi-agencies. A trigger will need to be provided between Birth, Death and Marriages, Department of Health and WA Police acknowledging the passing or injury leaving a primary licence holder incapacitated. WAFarmers recognises that some onus of responsibility rests with the next of kin and/or secondary licence holder in the event that notification is not provided to the respective government agency in a timely manner.

While the firearm(s) lay in the possession of WA Police, they will be stored in their secure facilities under a period of time that would be recognised as an amnesty period. The firearms will lay idle for a period of 90 days. This facilitates an ample period of time for an applicant to approach WA Police to claim the firearm(s) and enter the appropriate licencing process to claim licencing rights of the firearms.

If the secondary licence holder approaches WA Police with all relevant documents approved and in order to claim the firearm(s), there is no reason why they need to endure the 90 day amnesty period. This is because the WA Police Firearms Branch will already have all the appropriate paperwork from the late primary licensee recognising the firearms in question already meet all the necessary regulations to possess and store the said firearm(s).

In the event a next of kin approaches to claim possession of the firearms, they will most likely have probate from the Public Trustee or Executor of the Will to claim the firearms as goods and chattels of the deceased estate. In this instance, the primary licence holder suffering catastrophic injury could have previously provided a letter of authority to the Power of Attorney stating how the said firearm(s) should be claimed. In the event the next of kin making the claim, already possesses an equivalent licence, then the aforementioned firearms should be released legally to the next of kin, similar to any other renewal. In the event the next of kin does not have a licence, they then can undergo a new licence application process using the serial numbers of the origin firearm(s) to become the new primary licence holder for that particular gun(s).

In the event the LRC and WA Police wish to investigate this matter further, WAFarmers is happy to assist with other key stakeholders in creating a regulatory process that will accommodate the transfer of firearm(s) between licence holders.