

HOUSE OF ASSEMBLY

THURSDAY 24TH SEPTEMBER 2015

STATUTES AMENDMENT (FIREARMS OFFENCES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 July 2015.)

Mr PEDERICK (Hammond) (16:46): I rise to speak to the Statutes Amendment (Firearms Offences) Bill 2015. I express my support for the bill but it certainly does need some debate. Obviously, this is following the widely known case where on New Year's Eve 2012, extremely sadly, a young man, Lewis McPherson, was shot dead by some drug-crazed felon. This is a great tragedy and, as a father of a couple of young boys, it weighs heavily on my heart and I can barely understand what has gone through the minds of this lad's parents. It is just a terrible thing for a parent to have to deal with.

I do know that since then the Attorney announced on 17 July 2014 that legislation would be introduced to classify those offences for providing a gun to someone who does not hold a licence as serious firearm offences. In regard to serious firearm offences, the presumption is against a suspended sentence and the presumption is against bail. As the Attorney-General has quoted, people who sell guns to those without a licence should expect to go straight to gaol.

This bill implements the Labor government's announced policy to reclassify offences against sections 10C(10) and 14 of the Firearms Act as serious firearms offences by adding them to the definition of 'serious firearms offences' under the Criminal Law Consolidation Act. These sections relate to offences of supplying a firearm to a person to whom a firearms prohibition order applies (section 10C(10)) or trafficking in firearms (section 14), which includes the offence of acquiring a firearm without a licence or supplying a firearm to someone without a licence.

In addition to the reclassification of these offences as serious firearms offences, the bill also creates a derivative liability for certain offences. This form—some would say it is a novel form—of legislative arrangement creates a stand-alone criminal offence so that if a person commits a firearms trafficking or supply offence and the commission of that offence results, directly or indirectly, in a firearm coming into the possession of an unlicensed person, the first person is liable for any offence committed by the second person with that firearm.

The derivative offence has been designed to be a stand-alone offence with a maximum penalty of a term of imprisonment no longer than the maximum term of the subsequent offence, being the offence committed by the person who has received the gun from the supplier. In relation to the Lewis McPherson case, this has provided the most significant political impetus for this legislation being put forward. The person who supplied the gun illegally has been convicted and was sentenced to eight years for the firearms offence, and I note he is putting up an appeal to that sentence.

What would this mean? It would mean that, upon Mr Cullen's conviction of the trafficking offence, by supplying the gun illegally to the offender who then committed the murder as a result of his derivative liability, Mr Cullen would also have been convicted of murder and liable to be sentenced for up to the duration given to the person who fired the shot. As it states in the second reading:

The policy of the law should be that, if you put a gun in the hands of an irresponsible person, and you do so illegally, then you wear the consequences of that action. Cullen should be guilty, not just of the weapons offences, but of murder or manslaughter. Firearms are uniquely and directly dangerous to life and limb and should be a special case.

I will express my interest in firearms. I am a firearms owner—a licensed firearms owner, which you would be glad to know. I have a C class licence because I have a farm. I have a property so that entitles me to have my 5-shot pump action shotgun, that is a 12-gauge, and I have a little single-shot 410 shotgun as well, securely locked up as they need to be, with ammunition stored separately.

I guess some concerns that have been relayed to me that I want to express to this house are to do with what happens in the advent of a stolen firearm. We note that these can amount to potentially 200 to 300 a year in this state. What would be the consequences of a stolen firearm being used for a terrible murder such as this one or another serious crime? People have expressed issues with that. Gun dealers have expressed concern. As it states in the bill, the amendment of the Criminal Law Consolidation Act 1935 and the insertion of part 7C is the derivative liability for certain offences as the offence where an unlawfully supplied firearm used in a subsequent offence, so that gives me some heart that this legislation is most likely worded appropriately. But I think there needs to be some teasing out, perhaps during the committee stage with the Attorney, so that people who are legal firearms owners—and there are over 50,000 of them in this state—who conduct their business legally can be sure that they will not be caught up in this legislation.

Certainly in regard to unlicensed firearms and supplying these firearms illegally, yes, there should be a high penalty to be paid for people who peddle unlicensed and unregistered firearms, especially knowing that they will be used in some crime or another. In this case, in the Lewis McPherson case, what happened is an absolute tragedy, but there are also other forms of hurt and stress that can be placed on people. Over the years, for as long as we have had banks in this state, we have had many bank hold-ups over time.

Thankfully they have slowed down quite a bit with changes in technology and security services getting on board but, sadly, we still have inside jobs. I note there was one at Mannum not that many years ago, just across the river from my electorate. It was an inside job, where people had to face the trauma of having a gun used in front of them. Obviously they can also be used in service station hold-ups and the like.

There should not be any way that people handling these unregistered firearms get away with it at all. I acknowledge what the deputy leader, the member for Bragg, said, that there should be more done in trying to round up these illegal weapons. I know it is probably a pretty tough job because these illegal weapons

would be underground but, from what you hear anecdotally on the street, it would not be that difficult to obtain one if that were your desire. Hopefully with legislation like we have passed in this place recently, cracking down on bikie gangs and legislation such as this, perhaps we can save some lives and save some trauma in the future.

Sadly it will be too late for some, like a young lad like Lewis McPherson and his family. We do not want this to happen to one more family in this state, let alone anyone else. With those few words I commend the bill.

Sitting extended beyond 17:00 on motion of Hon. J.R. Rau.