

DRAFT SECOND READING SPEECH

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Firearms Amendment (Rapid Fire Shotguns – Community Safety) Bill 2015

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Madam Speaker, I move that the Bill be read a second time.

The Bill seeks to close a technical loophole to ensure Tasmania's continued compliance with the National Firearms Agreement with respect to the regulation of shotguns in Tasmania under the *Firearms Act 1996*. In so doing, the Bill upholds the purpose of the National Firearms Agreement, which is to increase community safety by the appropriate regulation of firearms, including by restricting certain types of firearms to members of our community who have a demonstrated need.

The National Firearms Agreement was an historic agreement led by Prime Minister John Howard and supported by all political parties. It ushered in common legislation in all states. A gun buyback scheme followed, and as a result 660,959 rapid-fire weapons were taken out of the community.

In the 10 years before this Agreement was struck, 116 people were shot dead in 14 separate mass shootings in Australia and New Zealand.

In the nineteen years since the National Agreement was made there have been no public mass shootings where firearms were used. The use of firearms as a murder weapon has declined by nearly half across Australia. This runs starkly against the trend of many other countries, where gun ownership is unrestricted and gun related violence, including mass shootings, is increasing.

Today, Tasmania continues to have the highest per-capita gun ownership rates in Australia. There is a monumental 128,785 registered firearms, and 37,452 people are licensed to shoot them. Despite these numbers, Tasmania, and Australia generally, has a low gun crime rate. This can be attributed to the effectiveness of the National Firearms Agreement in restricting certain types of firearms to members of our community with a demonstrated need.

Madam Speaker, this Amendment Bill has been precipitated by the marketing of a new firearm, the Adler A110, a twelve gauge shotgun. It has a magazine that, coupled with a mechanical reciprocating mechanism, allows it to be fired repeatedly without breaking the gun to reload. At least 7,400 of the Adler six-shot guns have been purchased in Australia. Several hundred of these are estimated to be in the possession of Tasmanians now.

The Adler has been described by firearm enthusiasts as being “like a high-power pump-action shotgun”. The difference being that it utilises a lever mechanism, rather than a pump-action, to reload the shots. The smooth-cycling and short stroke lever action makes it possible to reload and fire six 12 gauge shots in as many seconds, one from its chamber and five from the magazine.

On 7th August of this year, a federal government ban on the importation into Australia of an eight-shot version of the Adler shotgun is due to expire. Gunsmiths have also been openly marketing extension tube that modify the magazine and enable the existing Adler A110 six-shot to fire up to eleven shots in as many seconds. Accessories tailored for the Adler, including gun rails, sights, a six-shot side saddle, and fully adjustable cut out stocks, are being sold that convert this gun into a military-style firearm.

Other international gun manufacturers are now trying to copy the success of the Adler lever-action shotgun by use of the technical loophole in the legislation that it exposes. We are aware of at least three. Like the Adler, these firearms are twelve gauge shotguns that utilise the new cantilever design, short-stroke lever action so that they are capable of firing six shots in as many seconds, one from the chamber and five from the magazine.

The *Pardus LAX12* has a variety of barrel lengths, including an eighteen inch tactical version. This has been available for pre-order and the first deliveries to Australian customers are due to occur this month. The *Uzkon LA887* is available in Australia and has similar specifications to the Adler. The *Alpharms LX20* comes with a top mounted rail for optics and a bottom rail for a laser. First deliveries of this firearm to Australian customers are due in July.

Madam Speaker, the availability of these new guns for Category A licence holders is a disturbing change in the firearm regulation landscape. Some have argued that lever action shotguns are nothing new, that they have been available in Australia for over a century, and that, therefore, the drafters of the National Firearms Agreement and the *Tasmanian Firearms Act* would have been aware of their existence.

This argument overly simplifies the facts. They rely on people drawing incorrect inferences to reach the conclusion that they want people to draw, namely that the drafters of the national Agreement and the *Firearms Act* intended the weapon be classified as a category A firearm.

The firearm this argument is based around is the Winchester models 1887 and 1901 lever-action shotguns. Neither of these can be used to fire a modern twelve gauge shell. The awkward and slow movement of these early lever-action mechanisms resulted in a decline in demand, and the Winchester company subsequently discontinued the production of both these lever action shotguns in 1920.

It was not until after the National Firearms Agreement was signed in 1996 that lever-action shotguns again entered the market in Australia. Unfortunately, firearms' manufacturers have sought to use technical loopholes in the implementing legislation at the state level, including Tasmania's *Firearms Act*, to undermine the purpose and intention of the National Firearms Agreement.

The National Firearms Agreement was drafted and agreed to by the States only twelve days after the tragic events at Port Arthur. It is therefore understandable that in 1996, 76 years after the production of the last Winchester lever action shotgun, the potential modifications to this type of firearm were not in the minds of the legislative drafters.

The new range of lever-action shotguns now on the market accept modern twelve gauge shell and feature a cantilever design. These enable a smooth pull to the reloading action, and with the short-stroke cycles of the mechanism incredibly fast reloading of the gun is possible compared to the Winchester models 1887 and 1901.

The claim made by some firearm proponents that the Adler and subsequent lever action shotguns have no new technology features, and that they operate in the same manner and with the same speed as the original Winchester lever action shotguns, is manifestly false.

The closure of the technical loopholes in the *Firearms Act* is critical if Tasmania is to comply with the National Firearms Agreement. It is also critical that we do this to uphold the community safety the *Agreement* ushered, and the comprehensive drop in firearm-related violence that has resulted everywhere in Australia.

Madam Speaker, shotguns are incredibly powerful and dangerous weapons with a long history of military use in close quarter combat. The US Army used twelve-gauge pump-action shotguns on the Western front in World War I to brutal effect. Germany filed a diplomatic protest, alleging they violated the laws of warfare. Since then it has remained a specialty close quarter weapon in modern military theatres of combat, and is used in law enforcement.

It goes without saying that if a person entered a public space with such a firearm and shot off six rounds at close quarters, the outcome would be catastrophic. There would be no chance for defence until all the shots in the gun had been fired.

A small group of gun proponents argue that any restrictions on gun ownership unfairly targets law-abiding citizens. But after the tragedy of Port Arthur we, the Australian community, did a simple risk assessment. We made the decision that not every person needs access to rapid-fire guns. We prioritised community safety over a free-for-all approach to gun ownership.

The amendments before the House today reflect this risk assessment. They are not a departure from the National Firearms Agreement. On the contrary, they are designed to ensure that technical loopholes in Tasmania's implementing legislation, the *Firearms Act*, cannot be used to avoid our compliance with the National Agreement.

Madam Speaker, the National Agreement committed all states and territories to a uniform system of firearms licensing and registration. The terms of the Agreement groups firearms into five broad licensing categories. It requires all licence applicants, other than those applying for a Category A firearm, to establish that they have a special need for the particular category of firearm. In so doing, it limited the availability of rapid-fire rifles and shotguns to primary producers, professional vermin exterminators, and a limited class of clay target firearm users. In contrast, anyone with a firearms licence, irrespective of need, can purchase a Category A firearm.

The controversy around the Adler A110, and the flood of modern lever-action shotguns that are now coming onto the market in its wake, centres around which of the five license categories a modern lever-action shotgun should most appropriately reside.

The controversy arises as a result of an omission of the National Firearms Agreement and Tasmania's *Firearms Act* to specifically refer to lever-action shotguns.

In Tasmania, it has been argued that modern-lever action firearms like the Adler A110 are most appropriately classified as a Category A firearm, defined in the *Firearms Act*, s14(1)(c), as being a "shotgun, other than a pump action or self loading".

However, the definition in the Tasmanian legislation does not accurately replicate the definition that appears in the National Firearms Agreement. In the Agreement, Category A firearms are restricted to: "air rifles; rimfire rifles (excluding self-loading); and single and double barrel shotguns."

The intention of the drafters of our National Firearms Agreement was unmistakably to restrict Category A shotguns to traditional single barrel or double barrel shotguns. Almost universally, these employ a break-open action to expose the breech ends of the barrels for unloading and reloading. These shotguns have no magazines. After the shots contained in each barrel of the shotgun have been fired, the person in control of the firearm needs to manually eject and then reload the spent barrels with new shells, without the assistance of a reciprocating mechanism. This interpretation is grounded in the terms of the National Firearms Agreement.

Additional evidence is provided in the fact the National Agreement groups Category A "single and double barrel shotguns" (i.e. one or two shot) with air rifles.

The Agreement then progressively groups shotguns into higher, and more restricted, categories as the shotgun in question increases in its capacity to fire more shots in rapid succession without the need to be physically reloaded.

For example, break-action shotgun/rifle combinations are categorised under Category B; semi-automatic and pump-action shotguns with a magazine capacity of less than five rounds are categorised under Category C, and self-loading and pump-action shotguns with a capacity of more than five rounds are categorised under Category D. It is not until Category C that shotguns with a magazine are mentioned, and even Category B shotguns do not possess a magazine.

In reference to the omission in the National Firearms Agreement to lever action shotguns, it is necessary to understand that in 1996, with the exception of the Winchester lever-action shotgun that ceased production in 1920 and could not fire a modern twelve-gauge shell, the Agreement covered the field of all shotguns commonly available at that time.

Indeed, the Tasmanian drafting of our *Firearms Act* reflects a decision on the part of the drafters at the time that, as the National Agreement referred to all commonly available shotguns in each category, it was convenient to re-word Category A to being a definition of shotguns that *excluded* those that were referred to in other categories, namely pump-action and self-loading shotguns.

In so doing, the Tasmanian Parliament unintentionally legislated to approve a definition that is inconsistent with the National Firearms Agreement.

The Bill before this House recognises that, unlike traditional single and double barrel shotguns, modern lever-action shotguns use a mechanism that enables spent ammunition to be ejected and fresh ammunition chambered from a magazine in rapid succession. It recognises that, like pump-action shotguns, modern lever-action shotguns are not a Category A firearm under the National Firearms Agreement, but instead they are a Category C or D firearm, depending on the capacity of the magazine.

The Bill amends the Tasmanian *Firearms Act* to ensure that it continues to comply with the National Firearms Agreement by categorising these modern lever-action firearms appropriately. It is entirely consistent with the intention of the National Firearms Agreement, which is to restrict shotguns with magazines to occupational categories of shooters who have been licensed for a specified purpose, such as extermination of feral animals.

The Bill amends Tasmania's *Firearms Act* to create a new definition of 'rapid fire shotgun' which is defined to mean a pump or lever action shotgun, or any other shotgun that uses a mechanism that enables spent ammunition to be ejected and fresh ammunition chambered from a magazine in rapid succession. It proceeds to substitute the reference to 'pump action' in sections 14, 16 and 17 of the Act with 'rapid fire' thereby achieving this outcome.

It's important this amendment to our legislation happens as soon as possible, to minimise the cost to tax payers of having to fund further gun buy backs in the future. This would effectively involve a transfer of wealth from ordinary Tasmanians to those gun manufacturers and retailers who have made profits from their use of loopholes in our *Firearms Act*.

Madam Speaker, each State must ultimately decide whether it intends to fully comply with the National Firearms Agreement. In so doing, each State should recognise the impact their decisions have on other States, particularly given our porous borders. However, Tasmania should not mount a case for accepting the lowest common denominator when it comes to regulating to protect community safety.

The wide availability under the least restrictive category of these new types of lever-action shotguns, of which the Adler A110 is just one of several now available, represents a clear break in the intention of the National Firearms Agreement.

In 1996 Tasmania's Parliament agreed to implement the stringent requirements contained in the Agreement, including restricting Category A shotguns to being the traditional single or double-barrel shotguns.

Those requirements have served our community well, and we have been fortunate to have had twenty years without a mass shooting event. The amendments contained in this Bill will make sure Tasmania continues to comply with the National Agreement.

I commend the Bill to the House.