

FIREARMS AMENDMENT (AIRSOFT) BILL 2019

Introduction and First Reading

Bill introduced, on motion by **Hon Aaron Stonehouse**, and read a first time.

Second Reading

HON AARON STONEHOUSE (South Metropolitan) [10.08 am]: I move —

That the bill be now read a second time.

The Firearms Amendment (Airsoft) Bill 2019 introduces a licensing regime to allow the game of airsoft to be played in Western Australia. This bill implements the recommendations of the Law Reform Commission of Western Australia's review of the Firearms Act 1973, which explicitly recommended that airsoft be legalised in Western Australia. Currently, airsoft is legal across the world. However, it remains illegal in the following countries: China, North Korea, Malaysia, Papua New Guinea, Turkmenistan, Uzbekistan, Honduras, and, of course, Australia. Airsoft is a game in which players, typically organised as two opposing teams, attempt to eliminate their opponents by tagging them with airsoft pellets propelled by an airsoft marker. In this way, the game of airsoft closely resembles paintball. This bill seeks to regulate airsoft in the same manner as paintball.

Airsoft markers are designed to propel airsoft pellets and are powered by either gas, spring or battery. An airsoft pellet, sometimes referred to as a BB, is a small spherical pellet constructed of either plastic or a biodegradable material. Eye protection is worn when playing airsoft. In some regards airsoft is more accessible than paintball. Airsoft pellets are lighter and smaller than paintball pellets and therefore have far less energy. The impact of an airsoft pellet is lighter than the impact of a paintball pellet. Airsoft pellets are also considerably cheaper than paintball pellets. A bag of 5 000 airsoft pellets will cost around \$20. I draw that figure from New Zealand, where airsoft is legal. By comparison, a box of 2 000 paintball pellets, in Australia, will cost around \$30. That is \$20 for 5 000 rounds compared with \$30 for 2 000 rounds.

The case for legalising airsoft is clear. First, much like other skirmish sports, airsoft is a fun, safe and healthy outdoor activity. Regular playing of airsoft reduces the risk of adverse health effects caused by inactivity. As a team-based sport, airsoft provides opportunities for players to socialise and connect with like-minded people. Second, Australia is out of step with the rest of the world. We stand as one of the only countries that continue to prohibit airsoft. The United Kingdom, Canada, the United States and New Zealand all allow airsoft to be played alongside other skirmish sports. Finally, there are economic benefits to legalising airsoft that should not be understated. Airsoft players require protective equipment, goggles, accessories, markers and pellets. This creates a market for local suppliers. Airsoft players currently travel abroad at great expense to play their sport. Money spent by Western Australians on airsoft in neighbouring countries could be better spent locally. As airsoft is often played on outdoor fields, there are also opportunities for regional Western Australia to host large-scale events.

When it comes to the drafting of this bill, the Law Reform Commission got it right when it said that for airsoft to be legal in Western Australia, amendments would need to be made to the Firearms Act. Parts of the act prohibit the exercise of airsoft, such as a ban on individuals pointing markers at one another. Amending the Firearms Act is logical because that is where paintball is currently regulated. Regulating airsoft in a separate act while paintball remains in the Firearms Act would create an inconsistency in what is already a complex licensing regime. I am also mindful of the fact that I am a private member and that my political party does not enjoy representation in the lower house. This is significant because, as we all know, bills that involve the appropriation of moneys must be introduced to the lower house. If airsoft was in a separate bill that involved such moneys, I may not have been in a position to advance the legislation. My sincere hope is that this bill can be a first step in a larger reform of the Firearms Act, something that all in the chamber know is long overdue. Ideally, in time, airsoft can find itself outside of the Firearms Act, alongside other skirmish sports. In the interim, I hope to introduce airsoft to the general public in Western Australia, and make the game less of a stranger to policymakers than it currently is.

The bill introduces airsoft into the licensing regime of the Firearms Act 1973, much in the same way paintball was introduced through the Firearms Amendment Bill 2003, by my cross-chamber colleague, Hon Michelle Roberts, MLA. As with paintball, anyone over 18 may apply for a firearms licence to own an airsoft marker. Clause 4 defines airsoft as a game in which players attempt to shoot one another, or other targets, with airsoft markers, using airsoft pellets. The clause defines the characteristics of an airsoft pellet, setting limits of size and weight. Clause 5 creates a new section 4A that defines airsoft markers and sets energy limits. New section 4A provides for fully automatic markers with a maximum pellet energy of 1.3 joules, and any other kind of marker, with a maximum pellet energy of 2.5 joules. These energy limits are based upon research undertaken in the United Kingdom by the Association of Chief Police Officers and by the Forensic Science Service of the College of Policing, which found that there is a difference in the potential lethality between a fully automatic marker and other kinds of markers. I draw this information from letters of report by ACPO and the FSS to policymakers within that country dated 19 September 2011 and 24 March 2011 respectively. The College of Policing stated —

The results clearly indicate that pellets, with a given velocity, discharged at a single area of a target, in full auto-fire, can cause greater damage than pellets discharged in semi-auto fire. This is not surprising as one is concentrating multiple impacts at the same part of the target leading to cumulative damage.

The Association of Chief Police Officers stated —

In summary, I offer that it will be safe to conclude that fully automatic airsoft guns operating at 1.3 joules or less and single shot (or semi automatic) airsoft guns operating at 2.5 joules or less would not engage the lethality threshold.

I accept these conclusions as being sound, and for that reason, the same restrictions on airsoft markers are applied in this bill. Clause 5 also requires the mandatory colouration of airsoft markers, and provides for a prescribed means of identification for airsoft markers. As a guiding principle of firearms legislation in Australia, all firearms need to be identifiable. This type of requirement is problematic for airsoft because most airsoft markers are constructed using plastic and are regarded by their manufacturers as little more than toys, and thus do not feature a serial number. The Western Australia Police Force acknowledged as much when it stated in its advice to me —

One complicating issue is the identification by serial number of airsoft firearms as these types of weapons do not generally have serial numbers and, being made of hard plastic, serial numbers cannot be permanently stamped upon them. This raises the question of how a firearm can be licensed if it cannot be identified.

Although it would not be practical to ask manufacturers worldwide to adjust their manufacturing processes on account of our legislation, and although it would not be feasible to stamp onto an airsoft marker a serial number, it is feasible to etch onto the marker a unique identifier. This could occur at the point in time when a dealer first takes possession of an airsoft marker. My sincere advice to the government, should it reach the point at which it is drafting regulations in regard to this bill and liaising with the WA Police Force regarding any of its policies, is to recognise the reality of the construction of airsoft markers, as outlined here, and to prescribe a form of serialisation that is practical and makes sense. In my view, that would involve dealers generating and etching a serial number onto an airsoft marker at the point of initial possession.

Clause 6 provides for the holding of events at temporary venues, consistent with Law Reform Commission recommendations 73.7 and 73.8. Clause 9 requires that anyone under the age of 16 be accompanied by a parent or guardian when attending an approved airsoft event.

I have to draw members' attention to the fact that a number of consequential amendments will be required, to both the Firearms Regulations 1974 and the Combat Sports Regulations 2004, to make the legalisation of airsoft practical. Each of these amendments are detailed in the accompanying explanatory memorandum. As members will be aware, I am unable to carry out these amendments in my capacity as a private member, and so expect that the government will do so in due course, but in a manner that does not jeopardise the drafting principle of this legislation, which is that airsoft be legal and readily accessible in Western Australia, and that it be regulated in a manner that does not endanger the wellbeing, enjoyment and finances of users and non-users.

I am also advised by the Parliamentary Counsel's Office that the bill, as drafted, does not require a message from the Governor pursuant to section 46(8) of the Constitution Acts Amendment Act 1899, in that it does not appropriate revenue or moneys. I understand that the provisions of section 46(8) have been interpreted fairly broadly by Parliament in the past, and might impinge upon the ability of a member whose party has no representation in the other place to introduce a particular species of private member's bill, but the PCO is confident that that is not the case here.

In developing this bill, I have consulted widely with stakeholders, including the Minister for Police; representatives of the Western Australia Police Force; and members of the firearms and airsoft community, including the Western Australia Airsoft Club, the Sporting Shooters' Association of Australia and the Western Australian Firearm Traders Association.

Lastly, I would like to thank my staff member Nikola Kaurin, who was instrumental in liaising with stakeholders and in assisting in the design of this bill. I think it is fair to say that without Nik's help, airsoft would not have a legal framework here in Western Australia any time soon.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 3202.]

Debate adjourned, pursuant to standing orders.