Restriction on sale and usage of air guns (Scotland) Bill

Consultation

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FOREWORD

All of us have a vested interest in safer communities. We seek maximum peace of mind for our children and the wider community. Improving society as a whole requires major and radical surgery to tackle inequality and the poverty it spawns. However small step changes can be made quickly to make our streets safer. One such step change is the banning of all air rifles and pistols. They are a constant source of vandalism, injury and even death in the wrong hands. The whole of Scotland was appalled by the tragic death of two year old Andrew Morton from Easterhouse in March 2005. He was killed by a pellet fired from an air rifle. Currently possession of such air rifles or air pistols is not illegal. I think that is unacceptable. The message this Bill proposal carries is air guns are lethal weapons and should be banned except for exceptional purposes in registered gun clubs or by pest control officers. I want the circulation and use of such lethal weapons in our communities radically reduced and eventually eradicated. It would represent a small step towards safer communities. I hope you agree and I invited you to respond to this consultation document.

Yours in Solidarity

Tommy Sheridan MSP
1. INTRODUCTION

1.1 I intend to introduce the Restriction on sale and usage of Air Guns (Scotland) Bill in the Scottish Parliament.

1.2 This Bill will seek to ban the sale and use of all air rifle and pistols except for use in a registered gun club or by a registered Local Authority pest control officer. This would mean that anyone owning a gun except for the use in a gun club or for legitimate local authority pest control purposes would be committing a criminal offence and that all such weapons would be kept in registered gun clubs under secure storage and in designated secure storage areas in Local Authorities.

1.3 Possession of an air gun outwith the premises of a gun club or for legitimate pest control purposes would be a criminal offence.

1.4 Sale of air guns would only be allowed by Registered Firearms Dealers for use in a Registered Gun Club, or Local Authority pest control purposes.

1.5 At present owning an air gun is only restricted by age.

1.6 This bill has the potential to stop the serious injury and fatalities related to the mis-use of air guns.

1.7 This Bill will radically reduce and aims to eventually eliminate the circulation of air guns in communities across Scotland.

1.8 This Bill has the potential to reduce strain on emergency services such as police, ambulance and accident and emergency staff who currently have to respond to air gun incidents.

1.9 This document is a formal consultation paper on this Bill proposal and sets out the background on the issue and puts the case for a change to the law.

2. BACKGROUND

The current legislation

2.1. After recent tragedies the law has been changed and at present the age for owning an air gun is 18 years of age and purchase is restricted to outlets run by Registered Firearms dealers. It is an offence to indiscriminately and recklessly fire an airgun from private premises, but not to own one.
2.2 Firearms legislation is reserved to Westminster and in the wake of the Andrew Morton tragedy amongst others the Westminster Parliament introduced a new licensing system for air guns.

2.3 The Violent Crime Reduction Bill became law in November 2006 and included the following provisions relating to airguns¹

- Anyone selling air weapons by way of trade/business must be registered and approved by the police as a registered firearms dealer (RFD) and show that their business does not present a danger to the public
- Applicants will have to pay a £150 fee to become registered and prove to the police that they are a fit person to hold a certificate. They will be required to keep records of transactions, including the name and address of the purchaser, and ensure that appropriate security measures are in place to prevent these weapons falling into the wrong hands
- The police will be able to withdraw registration if the RFD becomes a danger to public safety - for example by selling air weapons to someone under age or not complying with the registration conditions imposed by the police
- It will become an offence to sell air weapons by way of trade/business without being an RFD. It will also be an offence for manufacturers to supply air weapons to non RFDs and for non RFDs to import air weapons
- All air weapons sold must be handed over in person, through a RFD, effectively preventing anonymous sales via the internet or mail order
- Suppliers will become accountable to the police and be required to keep details of all purchasers

2.4 During the Scottish Parliament debate in March 2005 Cathy Jamieson, the Justice Minster said “we will act.” “I reiterate the words of the First Minister, who stressed that nothing has been ruled in and nothing has been ruled out at this stage.”²

2.5 The First Minister, while welcoming the Bill, has indicated that he would like to go further however that would mean introducing legislation in the Scottish Parliament that is ultra vires.

2.6 The Scottish Parliament can introduce legislation that enters the scope of UK Law by a “Reverse Sewel” process. A “Reverse Sewel” is a technical measure that allows the Scottish Executive to introduce legislation that enters the scope of UK Law. A “Reverse Sewell” would have to be passed at Westminster and recent reports have indicated that the Home Secretary

¹ http://www.scotland.gov.uk/News/Releases/2006/11/08141757
² http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-05/sor0324-02.htm#Col15673
would be willing to pass such a technical measure to allow for legislation on this matter. ³

Airgun usage - current facts and figures

2.7 The use of airguns remains a serious issue in Scotland. Figures show that in 1999/00 there were 623 offences involving air guns, in 2005/06 this figure was 618. Injuries from 1999 to the present day area are a massive 1,154 including 3 fatalities.⁴

2.8 Offences involving airguns is increasing. Air guns accounted for 58% of all offences involving firearms in 2005-06, compared to 43% in 2004-05.⁵

2.9 In 2005-06, air guns were used in 79% of offences of vandalism, 63% of offences of reckless conduct with firearms, 57% of offences of minor assault, 75% of offences of serious assault and 8% of offences of robbery.⁶

2.10 The Association of Chief Police Officers in Scotland (Acpos) has estimated that there are around 500,000 air guns in Scotland.⁷

The problems with air guns

2.11 Case Study A

In March 2005, two-year-old Andrew Morton was tragically shot and killed by an airgun as he and his brother went to see a fire engine near their house in Easterhouse Glasgow. Andrew died in his brother arms. The gunman was a twenty seven year old who gave no explanation for the shooting.

2.12 Case Study B

In April 2005, six year old Tyler Scott was shot in the head while he was playing with his eight year old sister outside his house in Muirhouse Edinburgh. The Emergency Consultant at the Royal Hospital for Sick Children who operated on Tyler stated that the boy could easily have lost his sight or even his life. The gunman turned out to be a fifteen year old boy who was thought to have been trying to shoot a cat.
Support for a ban

2.13 Support for a ban on air guns is widespread and several councils have debated just such a ban, including West Dunbartonshire Council, Argyll and Bute Council and South Ayrshire Council.

2.14 A petition to ban air guns was laid in Westminster to put pressure on the Westminster Government to introduce a total ban as part of the Violent Crime Reduction Bill.  

2.15 In March 2006, Sheriff Richard Davidson of Dundee heard the case of a man who had shot his girlfriend in the head with an air pistol. Sheriff Davidson said that this was not the first young man to have a fascination with air weapons. The Sheriff added that he found it difficult to understand why legislators still allowed them to be sold, and that it was high time the rules were revisited and not just “tinkered” with.  

2.16 In 2005, the SNP brought forward a debate in the Scottish Parliament on banning air guns. The SNP have stated that there should be “strict conditions on who can acquire airguns and where they can be used”  

2.17 After the killing of Andrew Morton, First Minister Jack McConnell said that, “In irresponsible hands, an air-gun is a lethal weapon”. Speaking at the Labour Party Conference in Dundee in 2005, he further stated that, “It would be wrong to rule out a total ban”.

3. DETAILS OF PROPOSAL

3.1 My proposal for a Bill would introduce a straightforward ban on the use of all air guns except for use in gun clubs or for legitimate pest control purposes.

3.2 In practice this would mean that air guns would only be kept in Registered Gun Club premises or designated Local Authority offices and could only be legally used by Gun club members in the confines of the Club or by designated Local Authority pest control officers.

3.3 This would also mean that air guns could only be legally bought and sold via Registered Firearms Dealers to Gun Clubs or Local Authorities.

8 http://petitionthem.com/?sect=detail&pet=2771
9 http://www.journalonline.co.uk/news/1002791.aspx
4. CONCLUSION AND HOW TO RESPOND

4.1 Thank you for taking the time to consider this proposal. I hope that you have been convinced that there is a clear and powerful argument for banning all air rifle and pistols.

4.2 You are invited to consider the merit of the proposal and respond to this consultation paper by answering the attached questions.

4.3 Responses, which should be submitted by the 12th March 2007, should be sent to:

Tommy Sheridan MSP
Room MG04
Scottish Parliament
Edinburgh
EH99 1SP

and/or by email to:
Tommy.sheridan.msp@scottish.parliament.uk

4.4 Please make it clear whether you are responding as an individual or on behalf of an organisation.

4.5 If you wish your response to be kept confidential, please indicate this clearly at the end of your response. Otherwise it will be assumed that your response can be made public, in accordance with the principles of transparency and freedom of information. Confidential responses will be included in any summary or statistical analysis of the consultation responses but this will not reveal the identity of any respondent who has requested confidentiality.

4.6 Additional copies of the consultation can be requested using the contact details above. Feel free to pass this consultation on to any other interested parties that you may be aware of.

5. QUESTIONS

5.1 My Bill proposes to ban the use of all air guns except for use in gun clubs or for legitimate pest control purposes. Do you agree with this proposal?

5.2 My bill proposes to include all air guns in this ban but excludes replica guns. Do you think that the scope of the Bill should be widened to include replica guns?
5.3 My Bill proposes to ban the sale of all air guns except by Registered Firearms Dealers to registered Gun Clubs and Local Authorities. Do you agree with this restriction?

5.4 My Bill proposes to enforce the storage of all air guns in Gun Clubs and Local Authority premises to be in secure storage. Do you agree with this restriction?

5.5 My Bill prevents the sale and possession of guns to the general public but still facilitate the sport of shooting through registered gun clubs. Do you agree with control?

5.6 Making something illegal does not guarantee that a particular practise will end but I believe this bill will reduce the circulation and misuse of air guns. Do you agree?

5.7 Please feel free to make any other comments you wish regarding this proposed Bill.