

Should Gun Users Have Blood Alcohol Limits?

NSW motorists must adhere to blood alcohol limits when it comes to driving a car or boat, or riding a motorcycle – so should people who handle dangerous weapons like guns be subjected to similar restrictions?

It's not hard to imagine situations involving alcohol and guns going wrong – and anti-gun groups are keen to see specific alcohol limits imposed on those who use firearms.

The Tasmanian Proposal

In Tasmania, amendments to the [Firearms Act](#) which would incorporate a blood alcohol concentration (BAC) limit for gun users are currently being debated in parliament.

The Vice President of Gun Control, Roland Browne, proposes that gun-users should be restricted to a BAC of 0.05 – the same as most drivers.

While Browne acknowledges that the majority of gun owners are responsible, he believes that the law is required to target the few that recklessly drink before performing jobs that require them to handle a firearm.

[Shooters groups vehemently oppose the proposals](#), pointing-out that the industry has been successfully self-regulated thus far.

Under current Tasmanian law, it is an offence to use a firearm while “under the influence” of alcohol – but it can be far more difficult to prove that a person is under the influence than it is to establish a particular level of blood in their system, eg that they are 0.05.

This is because proof that a person is under the influence

requires evidence that the person's ability was actually affected by alcohol, rather than simply producing a reading from a testing machine.

What is the law in NSW?

In NSW, there is currently no BAC limit on gun use.

[Section 64\(1\) of the NSW Firearms Act 1996](#) simply states that a person must not handle a firearm while "under the influence" of alcohol or any other drug.

This is similar to existing Tasmanian legislation, although the penalties differ.

In NSW, the maximum penalty for this is five years imprisonment, while in Tasmania it is a \$7,000 fine and/or two years imprisonment.

What does "under the influence" mean?

Being under the influence does not necessarily mean that a person is highly intoxicated – it simply means that a person's ability to drive a car (or use a gun as the case may be) is affected or impaired to some extent by the use existence of alcohol.

Police do not currently have the power to require a person in possession of a firearm to undergo a [random breath test](#) like they do if someone is driving a car.

Instead, to prove that a person is under the influence of alcohol, a police officer must look for signs that a person is actually affected, such as erratic behaviour, glazed or red eyes, having trouble talking, stumbling and the smell of intoxicating liquor.

The story of John Jedrasiak

One man recently got himself into trouble with the law after

consuming a few alcoholic beverages with his son over lunch.

[John Jedrasiak](#) worked as a security officer, and the two or three beers he consumed over lunch would prove fatal to his career.

At about 9pm, he went to lock up Cabramatta mall as part of his job. After an altercation with two men who threatened to kill him, Jedrasiak called the police. When they arrived, he was interviewed but things quickly changed when he became the focus of suspicion himself.

The police officer who interviewed Jedrasiak formed the opinion that he was affected by alcohol. He told the Tribunal that he smelt liquor on Jedrasiak's breath and noted his glazed and slightly red eyes.

The officer intended to charge him, but after receiving legal advice, decided not to.

However for Jedrasiak, those beers still came with unfortunate consequences. Although he avoided criminal charges, he ended up losing his firearm licence.

He appealed and the matter came before the Administrative Decisions Tribunal.

The Tribunal found that Jedrasiak had made an error by assuming that he could be drink alcohol and then do his job, which involved carrying a firearm. It therefore dismissed his appeal and upheld the cancellation of his licence.

The case shows that harsh consequences may flow from using or handing a gun under the influence of alcohol.