

HOUSE BILL REPORT

HB 1508

As Reported by House Committee On:
Judiciary

Title: An act relating to protecting sport shooting ranges.

Brief Description: Protecting sport shooting ranges.

Sponsors: Representatives Takko, Probst and Van De Wege.

Brief History:

Committee Activity:

Judiciary: 1/12/12, 1/30/12 [DPS].

Brief Summary of Substitute Bill

- Provides a sport shooting range with an affirmative defense to a nuisance action based on noise if the nature of the use of the range has not substantially changed since the time the plaintiff acquired the adversely affected property.
- Provides that users of sport shooting ranges assume the obvious risks of sport shooting.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Edie Adams (786-7180).

Background:

Firearms ranges are used by members of the general public and by many law enforcement personnel for recreational shooting as well as firearms training and safety training. Some of these ranges are owned and operated by public entities, and some are owned by private entities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Private "nonprofit firearm range training and practice facilities" may be supported in part by public money. Private entities receiving matching funds or grants of public funds are required to keep facilities open on a regular basis and available for use by law enforcement personnel and the general public for hunter and firearm safety classes. The Firearms Range Account is administered by the Recreation and Conservation Funding Board and is authorized to make grants for the construction or maintenance of range facilities, safety or environmental improvements, noise abatement, and other purposes. The Firearms Range Account is funded by a portion of the fees paid for concealed pistol licenses.

Sport shooting ranges can be impacted by local land use regulations or noise ordinances and the civil actions for nuisance by neighboring property owners as a result of the pressures of population growth and land development. Nuisances occur, generally, when there is a substantial and unreasonable interference with another individual's use and enjoyment of his or her land. In determining whether a person's conduct constitutes an unreasonable interference, courts will balance the competing interests of the defendant's conduct and the resulting harm to the plaintiff. Remedies for nuisance can include damages or injunctive relief.

Summary of Substitute Bill:

In a nuisance action based on noise or noise pollution brought against an owner or operator of a sport shooting range, it is an affirmative defense that the range was in operation at the time the plaintiff acquired title to the adversely affected property and the nature of the use of the range has not substantially changed since that time.

Individuals who participate in sport shooting at a sport shooting range are deemed to have accepted the obvious risks associated with the sport. Examples of obvious risks of sport shooting are provided.

Substitute Bill Compared to Original Bill:

The original bill provided immunity to operators and users of sport shooting ranges for any civil and criminal liabilities based on noise or noise pollution, including nuisance and injunctive actions, if the range was in compliance with noise control laws that were in effect when the range was built or first operated. The original bill also provided that such ranges are not subject to any state agency rule limiting outdoor noise levels and that ranges that conform to existing laws can continue operating despite subsequent non-compliance. The original bill contained an emergency clause.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Washington has a strong hunting and sport shooting heritage. Hunters and sport shooters need safe places to practice and participate in firearms safety courses. If we do not have sport shooting ranges, people will go out into the woods or other areas to practice target shooting. This would result in greater safety concerns for neighborhoods.

Many gun ranges have been established in rural, undeveloped areas, and over time surrounding areas are developed. People move into the area, knowing there is a shooting range, and then they start complaining about the noise and try to get ordinances adopted to shut down the range. Dozens of mostly not-for-profit ranges are being hounded out of existence or reduced in scope or size as a result. The bill is desperately needed to protect ranges, many of which provide safe and comprehensive resources to hunters, sport shooters, law enforcement, and service members. Ranges are doing their part to minimize their impact on communities by installing noise reduction and other safety features. We need to provide protections to existing ranges from encroaching development. Forty-eight out of 50 states have recognized the important role of sport shooting ranges and passed sport shooting range protection laws.

(With concerns) There is concern about codifying the inherent risk concept and whether this will result in a change to the common law standard.

(Opposed) This bill exempts ranges from all regulations and rules except those in existence when the range was established. Counties cannot be handcuffed in their ability to regulate land use and planning within their borders. Nuisance law is a foundation of the bundle of rights that we as property owners all possess to defend our property against nuisance conditions. This bill bars any actions based on nuisance for intolerable conditions on your property. The Constitution provides that no person shall be deprived of property without due process of law and courts hearing nuisance actions engage in a balancing of the parties' competing property rights. The bill does away with this careful weighing by the judiciary.

Property owners are being badly impacted by noise and safety concerns from gun ranges. When we bought our house near a gun range, the noise level was modest and the range was a good neighbor. Now, the activities on the range have gone way beyond the use that existed when we moved into the area and they have become horrible neighbors. They now shoot high-caliber, automatic, and semi-automatic weapons, fire cannons, and shoot into explosive targets. Our days are filled from sun up until late at night with excessive noise. Nobody denies that ranges serve a good purpose and have rights, but we as neighboring property owners also have rights to use our property without fear. This is a bad bill that gives ranges free reign to do whatever they want without regard to the impact on their neighbors.

Persons Testifying: (In support) Representative Takko, prime sponsor; Brian Judy, Washington Rifle Association; Eric Anderson and Carl Klein, Washington Department of Fish and Wildlife; James Williams, Pierce County Sportsman Council; Joe Damico, Security

Services Northwest; Greg Overstreet; Ray Carter; Tom Brandt; Marcus Carter, Kitsap Rifle and Revolver Club; Mathew Sroka; Michael Riverfield; and Randall Bragge.

(With concerns) Glenn Gaither; and Candice Bock, Association of Washington Cities.

(Opposed) Larry Shannon, Washington State Association for Justice; Neil Wachter, Kitsap Prosecuting Attorney; Libby Correll, Don Evans, and Kevin Gross, Kitsap Safe and Quiet.

Persons Signed In To Testify But Not Testifying: None.