

HOUSE BILL REPORT

ESHB 1508

As Passed House:
February 13, 2012

Title: An act relating to protecting sport shooting ranges.

Brief Description: Protecting sport shooting ranges.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Takko, Probst and Van De Wege).

Brief History:

Committee Activity:

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

Floor Activity:

Passed House: 2/13/12, 93-5.

Brief Summary of Engrossed Substitute Bill

- Gives a sport shooting range that complies with certain requirements protection from liability for violations of noise control laws and noise-based nuisance actions, and requires that such a range be classified as a conforming use.
- Provides that users of sport shooting ranges assume the obvious risks of sport shooting.
- Provides that local governments are not prohibited from regulating the location and construction of ranges after the effective date of the act.

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).

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.

Background:

Sport shooting 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 programs. Some of these ranges are owned and operated by public entities, and some are owned by private entities. Private "nonprofit firearm range training and practice facilities" may be supported in part by public money from the Firearms Range Account (Account). The Recreation and Conservation Funding Board can make grants from the Account for the construction or maintenance of range facilities, safety or environmental improvements, noise abatement, and other purposes.

Sport shooting ranges may be impacted by land use regulations and noise ordinances. Most cities and counties have adopted noise control ordinances that are based either on decibel level standards or more general public disturbance noise standards. Regulations adopted under the state Noise Control Act establish decibel level noise standards applicable to various locations. Sport shooting ranges are specifically exempted from these noise standards between the hours of 7 a.m. and 10 p.m.

Sport shooting ranges may also be subject to civil actions for nuisance by neighboring property owners. 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 parties by weighing the benefit of the defendant's conduct and the resulting harm to the plaintiff. The fact that a plaintiff "came to the nuisance" is not a defense to the nuisance action, but it may be considered by the court as a factor in weighing the competing interests of the parties. Remedies for nuisance may include damages or injunctive relief.

Summary of Engrossed Substitute Bill:

A person who owns or operates a sport shooting range is immune from civil or criminal liability for a violation of a noise control law or ordinance if the range is in compliance with all state and local government noise control laws that applied to the range on the later of the date of initial operation of the range, or January 1, 1980. Such a range must be classified as a conforming use.

In addition, the range is not subject to a noise-based nuisance action, and a court must not enjoin the operation or use of the range on the basis of noise, as long as there has not been a substantial change in the nature of the use of the range since the plaintiff acquired title to the property adversely affected by the range's operation.

A person who participates in sport shooting is deemed to accept the obvious risks associated with sport shooting. Examples of obvious risks of sport shooting are provided.

Local governments are not prohibited from regulating the location and construction of ranges after the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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. Forty-eight out of 50 states have 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. 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.