

HOUSE BILL No. 2558

By Committee on Federal and State Affairs

3-7

AN ACT concerning the regulation and application of state and local laws, rules, regulations and ordinances to sport shooting ranges; providing civil immunity to persons who operate or use such ranges.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Generally accepted operation practice" means those safety practices adopted, pursuant to rules and regulations, by the Kansas department of wildlife and parks and established by a nationally recognized nonprofit membership organization that provides voluntary firearms safety programs which include training individuals in the safe handling and use of firearms and which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges.

(b) "Local unit of government" means a county, city, township or any other political subdivision of the state, or any agency, authority, institution or instrumentality thereof.

(c) "Person" means an individual, proprietorship, partnership, corporation, club, governmental entity or other legal entity.

(d) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder or any other similar sport shooting.

Sec. 2. (a) Notwithstanding any other provisions of law, and in addition to other protections provided in this act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices in the state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances or resolutions that applied to the range and its operation at the time of construction and initial operation of the range.

(b) In addition to any civil protection provided by the act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or

1 operation of a range on the basis of noise or noise pollution, if the range
2 is in compliance with any noise control laws or ordinances or resolutions
3 that applied to the range and its operation at the time of construction or
4 initial operation of the range.

5 (c) Rules or regulations adopted by any state department or agency
6 for limiting levels of noise in terms of decibel level which may occur in
7 the outdoor atmosphere do not apply to a sport shooting range immune
8 from liability under this act. However, this subsection does not constrict
9 the application of any provision of generally accepted operation practices.

10 (d) A person who acquires title to real property adversely affected by
11 the use of property with a permanently located and improved sport shoot-
12 ing range constructed and initially operated prior to the time the person
13 acquires title shall not maintain a nuisance action on the basis of noise or
14 noise pollution or based upon known or inherent dangers against the
15 person who owns, operates or uses the range to restrain, enjoin, or impede
16 the use of the range. This section does not prohibit actions for negligence
17 or recklessness in the operation of the range.

18 Sec. 3. (a) A sport shooting range that is operated and is not in vio-
19 lation of state law at the time of the enactment of an ordinance or reso-
20 lution shall be permitted to continue in operation even if the operation
21 of the sport shooting range at a later date does not conform to the new
22 ordinance or resolution or amendment to an existing ordinance or
23 resolution.

24 (b) A sport shooting range that is in existence as of the effective date
25 of this act and operates in compliance with generally accepted operation
26 practices, even if not in compliance with an ordinance or resolution of a
27 local unit of government, shall be permitted to do all of the following
28 within its preexisting geographic boundaries if in compliance with gener-
29 ally accepted operation practices:

30 (1) Repair, remodel or reinforce any improvement or facilities or
31 building or structure as may be necessary in the interest of public safety
32 or to secure the continued use of the building or improvement;

33 (2) reconstruct, repair, rebuild or resume the use of a facility or build-
34 ing damaged by fire, collapse, explosion, act of God or act of war occurring
35 after the effective date of this act. The reconstruction, repair or restora-
36 tion shall be completed within one year following the date of the damage
37 or settlement of any property damage claim. If reconstruction, repair or
38 restoration is not completed within one year as provided in this subsec-
39 tion, such reconstruction, repair or restoration may be terminated in the
40 discretion of the local unit of government; or

41 (3) do anything authorized under generally accepted operation prac-
42 tices, including, but not limited to:

43 (A) Expand or enhance its membership or opportunities for public

1 participation; and

2 (B) reasonably expand or increase facilities or activities.

3 Sec 4. (a) Except as otherwise provided, the provisions of this act
4 shall not prohibit a local unit of government from regulating the location
5 and construction of a sport shooting range.

6 (b) No person or governmental entity may take title to property which
7 has a permanently located and improved sport shooting range, by con-
8 demnation, eminent domain or similar process when the proposed use of
9 said property would be for shooting related activities or recreational ac-
10 tivities or for private or commercial development. However, this provision
11 does not limit governmental exercise of imminent domain or easement
12 necessary for infrastructure additions or improvements, such as highways,
13 waterways or utilities.

14 Sec. 5. The secretary of the Kansas department of wildlife and parks
15 is hereby authorized to adopt rules and regulations necessary to imple-
16 ment the provisions of this act. Rules and regulations establishing gen-
17 erally accepted operation practices shall be adopted and be in effect on
18 or before January 1, 2002.

19 Sec. 6. This act shall take effect and be in force from and after its
20 publication in the Kansas register.

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