

NOISE LAWS: EXEMPT SHOOTING CLUBS



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THE APPARENT PROBLEM:

Within the past decade certain areas of the state, such as the Wayne County area, have experienced tremendous urban sprawl. Urban sprawl can result in competition for resources between humans and animals, or humans and other humans, and can result in conflict between those groups as well. The recent encroachment of urban areas around sport shooting ranges has resulted in conflict between range users and residents living near the ranges who want to keep their neighborhoods quiet. Residents of some neighborhoods near sport shooting ranges have filed lawsuits against range owners, operators and users citing violations of noise laws in order to curtail range use. Many range users feel that this action is unfair since typically ranges have been in existence longer than the urban communities that are established near them and have operated without noise violation problems in the past. Legislation has been introduced to grant immunity from noise violation suits to range users and operators.

THE CONTENT OF THE BILL:

The bill would grant immunity from civil liability or criminal prosecution to a person who operated or used a sport shooting range in matters relating to noise resulting from the range as long as the range was in compliance with any noise control laws applied to the range at the time construction or operation of the range was approved. Under the bill, a person who operated or used a range could not be subject to an action for nuisance, nor could a court prohibit operation of a range, if the range was in compliance with noise control laws or ordinances applied to the range at the time construction or operation of the range was approved. Rules or regulations adopted by any state department or agency for limiting levels of noise would not apply to a sport shooting range exempted from liability under the bill. However, the bill would not prohibit a local governmental unit from regulating the location, use, operation, safety, and construction of a sport shooting range after the effective date of the bill.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources (DNR) which operates seven sport shooting ranges, the bill would result in an indeterminate amount of savings from the department's avoidance of future nuisance and noise violation suits. (1-6-90)

ARGUMENTS:

For:

Currently, a sport shooting range may only be constructed and operated with the approval and authorization of the local unit of government with jurisdiction over the area in which the range is located. It is not fair to impose penalties upon users or operators of a range when they are engaged in normal patterns of use of a sport shooting range

House Bill 5056 as enrolled
Second Analysis (1-4-90)

Sponsor: Rep. Philip E. Hoffman

House Committee: Tourism, Fisheries, & Wildlife

Senate Committee: Judiciary

approved by the local unit of government. In addition, sport shooting is a valid recreational activity, and there is a need for safe, monitored ranges where people can engage in this activity. Prohibiting noise at a range is an effective way of putting many outdoor ranges out of business. Further, ranges are used not only by sport shooters, but by police agencies and law enforcement divisions, including the Department of State Police. The bill will help ensure the peaceful enjoyment of sport shooting ranges by allowing people to use and operate ranges without fear of lawsuits. However, it will still maintain a local unit's regulatory authority over a range by specifying that local unit's could regulate all aspects of range use besides noise, including safety and operation of the range.

Against:

It seems as if many of the firearms currently in use are much larger and louder than weapons commonly in use during the past few years. In particular, many people voice concern about Uzi submachine guns and other automatic weapons. The bill would effectively prohibit townships from regulating the noise created by sport shooting ranges, and would severely limit the means that citizens have to address the situation.

Response: In actuality, fully automatic weapons have been on the market since the 1930s, and the noises that are produced from them are similar to noises made by firearms currently available. In addition, oftentimes weapons such as the Uzi are of smaller caliber and quieter than conventional hunting firearms. Further, if a sport shooting range is used for purposes other than those approved by a local unit of government, the local unit of government could take appropriate measures to remedy the situation, such as regulating the hours of usage. However, the bill only addresses situations in which an individual is sued for using a sport shooting range for the purpose for which it was intended as approved by a local unit of government.

Against:

Although the majority of the outdoor sportshooting ranges were originally constructed in sparsely populated areas, several cities and suburban communities are growing at a rapid rate and sprawling into areas that were once uninhabited. The bill will help to limit growth by restricting local governmental regulation of the noise from outdoor sportshooting ranges. If local governments cannot limit noise from ranges, communities will not want to expand to areas that are near the ranges. In addition, the bill does not treat businesses equitably because it exempts outdoor sportshooting ranges from local ordinances concerning noise that are passed after the range has been constructed although other businesses are not exempt from ordinances passed after they have been constructed.

Response: The Supreme Court ruling in Smith v. Western Wayne County Conservation Association asserts that there

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is a standard of reasonableness that should be followed when dealing with noise pollution which is dependent upon the effect of the noise upon the ordinary, reasonable person. The logic of the ruling, as interpreted by the DNR, seems to assert that noise that was once considered fair continues to be fair if it is maintained at the decibel originally approved by the local unit. The bill provides reasonable protection to both the public and the range owners by requiring the range owners to maintain practices of the sport shooting range that do not deviate significantly from those practices originally approved by the local unit of government.