

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4
5 By: Senator S. Flowers

A Bill

SENATE BILL 270

For An Act To Be Entitled

8 AN ACT TO PROTECT PROPERTY RIGHTS OF OWNERS OR
9 LESSEES OF REAL PROPERTY NEAR A SPORT SHOOTING RANGE;
10 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

14 TO PROTECT PROPERTY RIGHTS OF OWNERS OR
15 LESSEES OF REAL PROPERTY NEAR A SPORT
16 SHOOTING RANGE; AND TO DECLARE AN
17 EMERGENCY.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Arkansas Code § 14-1-101 is amended to read as follows:

23 14-1-101. Sport shooting ranges and sports facilities - Definitions.

24 (a) A sport shooting range or sports facility that is not in violation
25 of a state law or an ordinance of a local unit of government ~~prior to~~ before
26 the enactment of a new ordinance of a local unit of government affecting the
27 range or facility may continue to operate even if, at or after the time of
28 enactment of the new ordinance affecting the range or facility, the operation
29 is not in compliance with the new ordinance.

30 (b) ~~No~~ A new ordinance of a local unit of government shall not
31 prohibit a sport shooting range or sports facility that is in existence on
32 August 12, 2005, from doing any of the following within its existing
33 geographic boundaries:

34 (1) Repairing, remodeling, or reinforcing any building or
35 improvement as may be necessary in the interest of public safety or to secure
36 the continued use of the building or improvement;



1 (2)(A) Reconstructing, repairing, rebuilding, or resuming the
2 use of a facility or building damaged by fire, collapse, explosion, act of
3 nature, or act of war occurring after August 12, 2005.

4 (B) The reconstruction, repair, or rebuilding shall be
5 completed within one (1) year following the date of the damage or settlement
6 of any property damage claim. If reconstruction, repair, or rebuilding is not
7 completed within one (1) year, the reconstruction, repair, or rebuilding may
8 be terminated in the discretion of the local unit of government;

9 (3) Expanding or enhancing its membership or opportunities for
10 public participation; or

11 (4) Reasonably expanding or increasing facilities or activities.

12 (c) Except as otherwise provided in this section, this section ~~shall~~
13 does not prohibit a local unit of government from regulating the location and
14 construction of a sport shooting range or sports facility.

15 (d) As used in this section:

16 (1) "Local unit of government" means a county, city of the first
17 class, city of the second class, or incorporated town;

18 (2) "New ordinance" also includes an ordinance or an amendment
19 to an existing ordinance;

20 (3) "Sport shooting range" means an area designed and operated
21 for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black
22 powder, or any other similar sport shooting; and

23 (4)(A) "Sports facility" means a baseball field, basketball
24 court, gymnasium, golf course, soccer field, swimming pool, tennis court, or
25 other facility for recreational sports.

26 (B) "Sports facility" does not include a facility for go-
27 carts, motorcycles, motor vehicles, or other motorized conveyances.

28 (e) Before a sport shooting range begins operation, the operator of
29 the sport shooting range shall obtain written consent from all owners and
30 lessees of land or other real property that is within one-half mile (1/2 mi.)
31 of the sport shooting range as required under § 16-105-502.

32
33 SECTION 2. Arkansas Code § 16-105-502 is amended to read as follows:
34 16-105-502. Sport shooting ranges.

35 (a) Notwithstanding any other provision of law to the contrary, a
36 person who operates or uses a sport shooting range in this state shall not be

1 subject to civil liability or criminal prosecution for noise or noise
2 pollution resulting from the operation or use of the sport shooting range if
3 the sport shooting range is in compliance with noise control ordinances of
4 local units of government that applied to the sport shooting range and its
5 operation at the time the sport shooting range was constructed and began
6 operation.

7 (b) A person who operates or uses a sport shooting range is not
8 subject to an action for nuisance, and no court of the state may enjoin the
9 use or operation of a sport shooting range on the basis of noise or noise
10 pollution, if the sport shooting range is in compliance with noise control
11 ordinances of units of local government that applied to the sport shooting
12 range and its operation at the time the sport shooting range was constructed
13 and began operation.

14 (c)(1) Within one (1) year before the sport shooting range begins
15 operation, whether or not there is a noise control ordinance as described
16 under subsections (a) and (b) of this section, an operator of a sport
17 shooting range shall obtain written consent to operate the sport shooting
18 range from all owners and lessors of land or other real property located
19 within one-half mile (1/2 mi.) of the sport shooting range.

20 (2) If an operator of a sport shooting range has not obtained
21 the written consent required under subdivision (c)(1) of this section, an
22 owner or lessor of land or other real property from whom consent is required
23 is entitled to an injunction from a court with jurisdiction enjoining
24 operation of the sport shooting range based on the operator's not having
25 obtained the required consent.

26 (d) Subsections (a) and (b) of this section apply only if an operator
27 of a sport shooting range has obtained the written consent required under
28 subsection (c) of this section.

29 ~~(e)~~(e) A person who subsequently acquires title to or who owns real
30 property adversely affected by the use of property with a permanently located
31 sport shooting range shall not maintain a nuisance action against the person
32 who owns the sport shooting range to restrain, enjoin, or impede the use of
33 the sport shooting range unless there has been a substantial change in the
34 nature of the use of the sport shooting range or by a person using the sport
35 shooting range.

36 ~~(d)~~(f) Rules ~~or regulations~~ adopted by any state agency for

1 establishing levels of noise allowable in the outdoor atmosphere shall not
2 apply to a sport shooting range exempted from liability under this
3 subchapter.

4 ~~(e)~~(g) Notwithstanding any other provision of law to the contrary,
5 nothing in this subchapter shall be construed to limit civil liability except
6 in the limited case of noise pollution.

7
8 SECTION 3. DO NOT CODIFY. Retroactivity.

9 This act applies retroactively to all sport shooting ranges except
10 those sport shooting ranges constructed and operating before January 1, 2017.

11
12 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that owners and lessors of real
14 property are at risk of having their right to enjoy and use their property
15 interfered with by sport shooting ranges that are less than one-half mile
16 (1/2 mi.) from the owners' or lessors' property; and that this act is
17 immediately necessary because it is essential for the State of Arkansas to
18 protect those private property rights. Therefore, an emergency is declared to
19 exist, and this act being immediately necessary for the preservation of the
20 public peace, health, and safety shall become effective on:

21 (1) The date of its approval by the Governor;

22 (2) If the bill is neither approved nor vetoed by the Governor,
23 the expiration of the period of time during which the Governor may veto the
24 bill; or

25 (3) If the bill is vetoed by the Governor and the veto is
26 overridden, the date the last house overrides the veto.