

*STATE RANGE*

*PROTECTION LAWS*

## STATES WITH RANGE PROTECTION

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#### STATES WITHOUT RANGE PROTECTION

1. Hawaii
2. Nebraska
3. Washington

ALABAMA – ALA. CODE § 6-5-341

**§ 6-5-341. Liability for operation or use of sport shooting range.**

(a) As used in this section, the following words shall have the following meanings:  
(1) GOVERNMENTAL BODY. The State of Alabama or any county or municipal governing body, agency, board, commission, committee, council, department, district, or any other public body corporate and politic created by constitution, statute, ordinance, rule, or order.

(2) PROPERTY. Real property and buildings, structures, and improvements thereon.

(3) SPORT SHOOTING RANGE. An area designed and used for rifle shooting, pistol shooting, trapshooting, skeetshooting, or other target shooting and related training or practice for the purpose of sharpshooting or improving in the use of firearms.

(b)(1) This section applies to all private or public civil, injunctive, and nuisance actions.

(2) Notwithstanding any other provision of law, any person, firm, or entity who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution or lead or lead pollution resulting from the operation or use of the range if the range is being operated between the hours of 9:00 a.m. and 9:00 p.m. and if the range has been in existence prior to 1990 or is in compliance with any noise or lead control laws or ordinances that applied to the sport shooting range and its operation on August 1, 2001, or at the time the sport shooting range came into existence, whichever event occurs first.

(3) Any person, firm, or entity who operates or uses a sport shooting range is not subject to an action for nuisance and is not subject to injunction to stop the use or operation of the shooting range on the basis of noise or noise pollution or lead or lead pollution if the range is being operated between the hours of 9:00 a.m. and 9:00 p.m. and if the range has been in existence prior to 1990 or is in compliance with any noise control or lead control laws or ordinances applying to the sport shooting range and its operation on August 1, 2001, or at the time the sport shooting range came into existence, whichever event occurs first.

(4) Except as expressly provided herein, nothing in this section nor the common law doctrine of attractive nuisance shall create any duty of care or grounds for liability toward any person using the property of another for a sport shooting range.

(c) No public street or alley shall be opened through a tract of property used or occupied as a sport shooting range, unless the necessity of the street or alley is first established by verdict of a jury upon a showing of extreme need and impossibility of redirecting or rerouting the street or alley to accommodate the sport shooting range.

(d) Rules or regulations adopted by any governmental body limiting levels of noise in terms of decibel level which may occur in the atmosphere shall not apply to a sport shooting range exempted from liability under this section.

(e) Rules or regulations adopted by any governmental body limiting levels of lead occurring in the atmosphere shall not apply to a sport shooting range exempted from liability under this section.

*(Act 2001-470, p. 626, §§1-5.)*

ALASKA - AK STAT. § 34.75.010

**Sec. 34.75.010. Limitation on actions arising from noise level.**

(a) Notwithstanding AS 09.45.230, AS 11.61.110, and any other state or municipal law, except (b) of this section and except as may be otherwise provided by federal law, a person may not bring a civil or criminal action against a person who operates or uses a sport shooting facility or a private airport facility if the action arises out of the noise level resulting from the normal operation or use of the facility and if the facility

(1) was established or began operation before any noise control law applied to the facility; or

(2) complies with the noise control laws that applied to the facility when the facility was established or began operation.

(b) The prohibition in (a) of this section does not apply to an action that arises out of

(1) a contract;

(2) a personal injury suffered by a person while on the premises of the facility; or

(3) a substantial change in the use of the facility.

(c) Except as may be otherwise provided by federal law, even if otherwise allowed by (a) and (b) of this section, a person may not bring a nuisance action for noise level against a facility located in the vicinity of the person's property if the facility was established before the person acquired the property, unless the facility substantially changes the use of the facility after the person acquires the property.

ARIZONA – ARIZ. REV. STAT. ANN § 17-601 ET SEQ.

**17-601. Definition of outdoor shooting range.**

In this article, unless the context otherwise requires, "outdoor shooting range" or "range" means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Outdoor shooting range does not include any area for the exclusive use of archery or air guns or a totally enclosed facility that is designed to offer a totally controlled shooting environment that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.

**17-602. State outdoor shooting range noise standards; preemption; measurement; definitions.**

A. The legislature finds that outdoor shooting range noise standards are a matter of statewide concern. City, town, county and any other state noise standards are preempted as applied to outdoor shooting ranges.

B. Each outdoor shooting range in this state shall measure the noise emitted from the range pursuant to subsection E at least once. In addition, the range shall measure the noise it emits if the range expands the area designed and operated for the use of firearms or explosives by more than twenty per cent in size than at the time of its initial noise measurement or if the range introduces the use of a type of firearm or explosive device that will increase noise production. The range shall pay for the measurement and shall keep the results of the measurement at the range at all times. Any person may review the noise measurement during the range's business hours. Ranges that are located at least one mile from areas that are zoned for residences, schools, hotels, motels, hospitals or churches are exempt from this subsection.

C. Any person, at the person's expense, may measure the noise emitted from an outdoor shooting range pursuant to subsection E.

D. The noise emitted from an outdoor shooting range shall not exceed an Leq(h) of sixty-four dBA.

E. In measuring the noise emitted from an outdoor shooting range:

1. If a range performs the measurement of noise pursuant to subsection B, sound pressure measurements shall be taken twenty feet from the nearest occupied residence, school, hotel, motel, hospital or church, or from the nearest proposed location of a residence, school, hotel, motel, hospital or church if the property is zoned for such a structure but is currently unimproved. If a person performs the measurement of noise pursuant to subsection C, sound pressure measurements shall be taken twenty feet from the person's residence, school, hotel, motel, hospital or church, or twenty feet from the proposed

## ARIZONA (CONT'D.)

location of the person's residence, school, hotel, motel, hospital or church if the property is zoned for such a structure but is currently unimproved.

2. Sound pressure measurements shall be made in a location directly between the range and the nearest existing or proposed residence, school, hotel, motel, hospital or church. If there are natural or artificial obstructions that prevent an accurate noise measurement, the measurement may be taken within an additional twenty feet radius from the initial measurement location.

3. Sound pressure measurements shall be made on the A-weighted fast response mode scale. Measurements shall be taken during the noisiest hour of peak use during the operation of the range. Measurements shall be taken according to American national standards institute's standard methods ANSI S1.2-1962 (R1976) American national standard method for physical measurement of sound and ANSI S1.2-1971 (R1976) American national standard method for measuring sound pressure levels. Measurements shall be taken using a type 1 sound meter meeting the requirements of ANSI S1.4L-1971. Any part of the measurements conducted on a range shall comply with the range safety rules.

F. Outdoor shooting ranges in operation on July 1, 2002 shall comply with the provisions of this section before July 1, 2003. Ranges not in operation on July 1, 2002 shall comply with the provisions of this section when they begin operation.

G. For the purposes of this section:

1. "A-weighted" means a frequency weighting network used to account for changes in sensitivity as a function of frequency.

2. "DBA" means A-weighted decibels, taking into account human response to sound energy in different frequency bands.

3. "Decibel" means the unit of measure for sound pressure denoting the ratio between two quantities that are proportional to power. The number of decibels is ten times the base ten logarithm of this ratio.

4. "Leq(h)" means the equivalent energy level that is the steady state level that contains the same amount of sound energy as a time varying sound level for a sixty minute time period.

### **17-603. Preexisting outdoor shooting ranges; noise buffering or attenuation.**

A. If an outdoor shooting range was constructed before July 1, 2002 in compliance with existing applicable county or municipal ordinances and zoning requirements and if property located within one mile of the exterior property boundary of the range is rezoned

## ARIZONA (CONT'D.)

after July 1, 2002 for residential use or any other use that includes a school, hotel, motel, hospital or church, the zoning authority must provide for noise buffers or attenuation devices that are either:

1. Within the new development as a condition for developing the property or as supplied by the zoning authority.

2. Supplied or funded by the zoning authority for location in the range.

B. Property owners, developers, zoning authorities and ranges may negotiate and provide for noise buffers or attenuation devices located on or off the range.

C. Any noise buffering or attenuation under this section must comply with the state noise standards prescribed by section 17-602.

### **17-604. Nighttime outdoor shooting range operations.**

A. Outdoor shooting ranges that are located in areas that are zoned for residential use or any other use that includes a school, hotel, motel, hospital or church shall not operate from 10:00 p.m. through 7:00 a.m.

B. This section does not apply to any outdoor shooting range while it is providing law enforcement or military training. These ranges must provide adequate public notice including posting in four public locations within one mile of the exterior boundaries of the range each calendar quarter of the schedule of when the range will operate from 10:00 p.m. through 7:00 a.m. and the purpose for those nighttime operations. Nighttime operations under this subsection must comply with the nighttime noise standards prescribed by section 17-602.

### **17-605. Noise pollution; nuisance; defense; costs.**

A. It is an affirmative defense to any civil liability or claim for equitable relief arising from any allegation regarding noise or noise pollution that results from owning, operating or using an outdoor shooting range if the entity or individual owning, operating or using the range complies with this article.

B. In any action where a defense has been raised pursuant to subsection A, the court shall award the prevailing party its costs and all expenses, including the party's costs incurred in measuring noise emitted from the range and reasonable attorney fees.

ARKANSAS – ARK. CODE ANN § 16-105-502

**16-105.502. Sport shooting ranges.**

(a) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution for noise or noise pollution resulting from the operation or use of the range if the range is in compliance with noise control ordinances of local units of government that applied to the range and its operation at the time the range was constructed and began operation.

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

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

(d) Rules or regulations adopted by any state agency for establishing levels of noise allowable in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this subchapter.

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

*History. Acts 1997, No. 602, § 2.*

## CALIFORNIA – CAL. CIVIL CODE § 3482.1

### §3482.1.

(a) As used in this section:

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

(2) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport or law enforcement training purpose.

(3) "Indoor shooting range" means a totally enclosed facility designed to offer a totally controlled shooting environment that includes impenetrable walls, floor and ceiling, adequate ventilation and lighting systems, and acoustical treatment for sound attenuation suitable for the range's approved use.

(4) "Nighttime" means between the hours of 10 p.m. and 7 a.m.

(b) (1) Except as provided in subdivision (f), a person who operates or uses a sport shooting range in this state shall not be 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 that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(2) Except as provided in subdivision (f), a person who operates or uses a sport shooting range or law enforcement training range is not subject to an action for nuisance, and a court shall not enjoin the use or operation of a range, on the basis of noise or noise pollution if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local public entity having jurisdiction in the matter, or if there were no such laws or ordinances that applied to the range and its operation at that time.

(3) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this section.

(c) A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved sport shooting range may not maintain a nuisance action with respect to noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range where there has been no substantial change in the nature or use of the range. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(d) A sport shooting range that is in operation and not in violation of existing law at the time of the enactment of an ordinance described in subdivision (b) shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to a new ordinance or an amendment to an existing ordinance if there has been no substantial change in the nature or use of the range. Nothing in this section shall be construed to limit the authority of a local agency to enforce any term of a conditional use permit.

## CALIFORNIA (CONT'D.)

(e) Except as otherwise provided in this section, this section does not prohibit a local public entity having jurisdiction in the matter from regulating the location and construction of a sport shooting range after the effective date of this section.

(f) This section does not prohibit a local public entity having jurisdiction in the matter from requiring that noise levels at the nearest residential property line to a range not exceed the level of normal city street noise which shall not be more than 60 decibels for night-time shooting. The subdivision does not abrogate any existing local standards for night-time shooting. The operator of a sport shooting range shall not unreasonably refuse to use trees, shrubs, or barriers, when appropriate, to mitigate the noise generated by night-time shooting. For the purpose of this section, a reasonable effort to mitigate is an action that can be accomplished in a manner and at a cost that does not impose an unreasonable financial burden upon the operator of the range.

(g) This section does not apply to indoor shooting ranges.

(h) This section does not apply to a range in existence prior to January 1, 1998, that is operated for law enforcement training purposes by a county of the sixth class if the range is located without the boundaries of that county and within the boundaries of another county. This subdivision shall become operative on July 1, 1999.

COLORADO – COL. REV. STAT. ANN. § 25-12-109

**25-12-109. Exception - sport shooting ranges - legislative declaration.**(1) The general assembly hereby finds, determines, and declares that the imposition of inconsistent, outdated, and unnecessary noise restrictions on qualifying sport shooting ranges that meet specific, designated qualifications work to the detriment of the public health, welfare, and morale as well as to the detriment of the economic well-being of the state. The general assembly further finds, determines, and declares that a need exists for statewide uniformity with respect to exempting qualifying shooting ranges from the enforcement of laws, ordinances, rules, and orders regulating noise. As the gain associated with having a uniform statewide exemption for qualifying sport shooting ranges outweighs any gains associated with enforcing noise regulations against such ranges, the general assembly further declares that the provisions of this section, as enacted, are a matter of statewide concern and preempt any provisions of any law, ordinance, rule, or order to the contrary.

(2) As used in this section, unless the context otherwise requires:

(a) "Local government" means any county, city, city and county, town, or any governmental entity, board, council, or committee operating under the authority of any county, city, city and county, or town.

(b) "Local government official" means any elected, appointed, or employed individual or group of individuals acting on behalf of or exercising the authority of any local government.

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

(d) "Qualifying sport shooting range" or "qualifying range" means any public or private establishment, whether operating for profit or not for profit, that operates an area for the discharge or other use of firearms or other equipment for silhouette, skeet, trap, black powder, target, self-defense, recreational or competitive shooting, or professional training.

(3) Notwithstanding any other law or municipal or county ordinance, rule, or order regulating noise to the contrary:

(a) A local governmental official may not commence a civil action nor seek a criminal penalty against a qualifying sport shooting range or its owners or operators on the grounds of noise emanating from such range that results from the normal operation or use of the qualifying shooting range except upon a written complaint from a resident of the jurisdiction in which the range is located. The complaint shall state the name and address of the complainant, how long the complainant has resided at the address indicated, the times and dates on which the alleged excessive noise occurred, and such

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other information as the local government may require. The local government shall not proceed to seek a criminal penalty or pursue a civil action against a qualifying sport shooting range on the basis of such a noise complaint if the complainant established residence within the jurisdiction after January 1, 1985.

(b) No person may bring any suit in law or equity or any other claim for relief against a qualifying sport shooting range located in the vicinity of the person's property or against the owners or operators of such range on the grounds of noise emanating from the range if:

(I) The qualifying range was established before the person acquired the property;

(II) The qualifying range complies with all laws, ordinances, rules, or orders regulating noise that applied to the range and its operation at the time of its construction or initial operation;

(III) No law, ordinance, rule, or order regulating noise applied to the qualifying range at the time of its construction or initial operation.

*Source: L. 98: Entire section added, p. 240, § 1, effective April 13.*

CONNECTICUT – CONN. GEN. STAT. § 22a-74a

**Sec. 22a-74a. Exemption of firing and shooting ranges from criminal and civil liability for noise and noise pollution.**

- (a) Any owner, operator or user of a firing or shooting range operating on October 1, 1998, shall be exempt from criminal prosecution with respect to noise or noise pollution violations and immune from civil liability with respect to noise or noise pollution resulting from shooting activity on such range provided the range was, at the time of its construction or operational approval by the municipality in which it is located, in compliance with the provisions of this chapter and regulations adopted hereunder.
- (b) No standards in a noise control ordinance adopted by any municipality for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to any firing or shooting range exempted from liability under this section if such standards are inconsistent with the provisions of this chapter or the regulations adopted hereunder.
- (c) This section shall not limit the ability of a municipality to evaluate and regulate any increase in noise attributable to a physical expansion of an existing firing or shooting range.

*(P.A. 98-129, S. 16.)*

DELAWARE – DEL. CODE ANN. TIT. 10 § 8142

**§ 8142. Limitations on shooting range and hunting operations nuisance suits.**

- a. For the purposes of this Section, the terms ‘shooting range’ and ‘hunting operations’ and ‘its appurtenances’ mean an operation including any of the following:
  1. lands, including the buildings and improvements thereon, which are used or which are intended for use for the shooting of targets for training, education, practice, recreation or competition;
  2. lands, including the buildings and improvements thereon, which are used or which are intended for use as a hunting club, hunting preserve, shooting preserve or a Restricted Experimental, Propagating and Shooting Preserve as provided for in Subchapter V of Chapter 5 of Title 7 of this Code;
  3. lands, including the buildings and improvements thereon, which are used or which are intended for use as a kennel, training facility or field trial facility for the breeding, showing, raising and/or training of hunting and sporting dogs; and
  4. clubs, associations, partnerships, sole proprietorships, corporations and other business and social entities whose activities or holdings include the land and uses described in the first three numbered paragraphs of this Subsection (a) of this § 8142.
  
- b. This Section does not apply to:
  1. shooting ranges or hunting operations which do not conform to federal, state or local health or zoning requirements except as may otherwise be provided elsewhere herein; or
  2. shooting ranges or hunting operations which are conducted in a negligent or unlawful manner.
    - a. No shooting range or hunting operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality thereof after the same has been in operation for more
    - b. than one (1) year if the operation or the change did not constitute a nuisance from the date the shooting range or hunting operation began or the date the change in the operation began. Likewise, a shooting range or hunting operation which fully complied with local zoning requirements when operations first began shall not be deemed to be non-compliant based upon zoning requirements which have subsequently changed since the initial commencement of operations.

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- c. Any and all state laws and ordinances of any unit of local government now in effect or hereafter adopted that would make the operation of any such shooting range or hunting operation or its appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstances set forth in this Section shall be null and void as applied to shooting ranges and hunting operations and their respective appurtenances; however, this Section shall not apply whenever nuisance results from the negligent or improper operation of any such shooting range or hunting operation or any of its appurtenances or when there has been a significant and fundamental change in the operation itself."

### SYNOPSIS

The purpose of this Bill is to protect existing shooting ranges and hunting operations from nuisance suits that might otherwise be brought by persons who have recently moved into the area and who have "come to the nuisance".

FLORIDA – FLA. STAT. ANN. § 823.16

**823.16. Sport shooting ranges; definitions; exemption from liability; exemption from specified rules; exemption from nuisance actions; continued operation.**

(1) Definitions.--As used in this act, the following terms shall have the following meanings:

(a) "Unit of local government" means a unit of local government created or established by law, including, but not limited to, a city, consolidated government, county, metropolitan government, municipality, town, or village.

(b) "Person" means an individual, corporation, proprietorship, partnership, association, club, two or more persons having a joint or common interest, or any other legal entity.

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

(2) Notwithstanding any other provision of law, a person who operates or uses a sport shooting range in this state shall not be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution which results from the operation or use of a sport shooting range, if the range is in compliance with any noise control laws or ordinances adopted by a unit of local government applicable to the range and its operation at the time of construction or initial operation of the range.

(3) A person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of this state shall not enjoin the use or operation of a sport shooting range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

(4) Rules adopted by any state department or agency for limiting levels of noise in terms of decibel levels which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this act.

(5) A person who acquires title to or owns real property adversely affected by the use of property with a permanently located and improved sport shooting range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been a substantial change in the nature of the use of the range. This section does not prohibit actions for negligence or recklessness in the operation of a sport shooting range or by a person using the range.

## FLORIDA § 823.16 (CONT'D.)

(6) A sport shooting range that is not in violation of existing law at the time of the enactment of an ordinance applicable to the sport shooting range shall be permitted to continue in operation even if the operation of the sport shooting range does not conform to the new ordinance or an amendment to an existing ordinance, provided the range was not in violation of any law when the range was constructed and provided that the range continues to conform to current National Rifle Association gun safety and shooting range standards.

(7) Except as otherwise provided in this act, this act shall not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this act.

*History.--s. 1, ch. 99-134*

## FLORIDA – FLA. STAT. ANN. § 790.333

### **790.333 Sport shooting and training range protection; liability; claims, expenses, and fees; penalties; preemption; construction.**

(1) LEGISLATIVE FINDINGS.-- (a) The Legislature finds that in excess of 400 sport shooting and training ranges exist on public and private lands throughout this state.

(b) These sport shooting and training ranges are widely used and enjoyed by the residents of this state and are a necessary component of the guarantees of the Second Amendment to the United States Constitution and of s. 8, Art. I of the State Constitution.

(c) Many of these ranges are used by state and local law enforcement agencies for training, practice, and regular mandatory qualification by law enforcement officers; by Fish and Wildlife Conservation Commission hunter safety instructors who teach adults and youngsters in the safe use and handling of firearms in preparation for obtaining hunting licenses; by school boards, colleges, and universities for reserve officer training corps training and activities; by school shooting teams; by Olympic competitors; and by certified instructors who teach the safe use and handling of firearms in preparation for applying for licenses to carry concealed firearms for lawful self-protection.

(d) The public policy of the State of Florida is to encourage the safe handling and operation of firearms and mandates appropriate training in the safe use and handling of firearms for persons licensed to carry concealed firearms and for persons licensed to hunt in the state. Sport shooting and training ranges throughout this state provide the location at which this important public purpose is served and at which the firearms training mandates are fulfilled.

## FLORIDA § 790.333 (CONT'D.)

- (e) Projectiles are integral to sport shooting and training range activity and to the ownership and use of firearms.
  - (f) Over years of operation, projectiles have accumulated in the environment at many ranges. Whether this projectile accumulation has caused or will cause degradation of the environment or harm to human health depends on factors that are site-specific. Therefore, sport shooting and training ranges must be allowed flexibility to apply appropriate environmental management practices at ranges. The use of environmental management practices can be implemented to avoid or reduce any potential for adverse environmental impact.
  - (g) The Department of Environmental Protection, in collaboration with shooting range owners and operators, sport shooting organizations, law enforcement representatives, and university researchers, has developed shooting range best management practices in order to minimize any potential for any adverse environmental impact resulting from the operation of shooting ranges.
  - (h) Appropriate environmental management practices, when implemented where applicable, can minimize or eliminate environmental impacts associated with projectiles. Environmental management practices to maintain or to improve the condition of ranges is evolving and will continue to evolve.
  - (i) Unnecessary litigation and unnecessary regulation by governmental agencies of sport shooting and training ranges impairs the ability of residents of this state to ensure safe handling of firearms and to enjoy the recreational opportunities ranges provide. The cost of defending these actions is prohibitive and threatens to bankrupt and destroy the sport shooting and training range industry.
  - (j) The Department of Environmental Protection does not have nor has it ever had authority to force permitting requirements of part IV of chapter 403 on owners and operators of sport shooting and training ranges.
  - (k) The elimination of sport shooting ranges will unnecessarily impair the ability of residents of this state to exercise and practice their constitutional guarantees under the Second Amendment to the United States Constitution and under s. 8, Art. I of the State Constitution.
- (2) LEGISLATIVE INTENT.--The Legislature intends to protect public and private sport shooting or training range owners, operators, users, employees, agents, contractors, customers, lenders, and insurers from lawsuits and other legal actions by the state, special purpose districts, or political subdivisions and to promote maximum flexibility for implementation of environmental management practices and of the principles of risk-based corrective action pursuant to s. 376.30701. It is also the intent of the Legislature that legal action against sport shooting and training ranges will only be a last-resort

## FLORIDA § 790.333 (CONT'D.)

option and be available only to the department and only after all reasonable efforts to resolve disputes at shooting ranges, including compliance assistance, negotiations, and alternative dispute resolution, have been attempted.

### (3) DEFINITIONS.--As used in this act:

(a) "Department" means the Department of Environmental Protection.

(b) "Operator" means any person who operates or has operated a sport shooting or training range.

(c) "Owner" means any person who owns or has owned a sport shooting or training range or any interest therein.

(d) "Projectile" means any object expelled, propelled, discharged, shot, or otherwise released from a firearm, BB gun, airgun, or similar device, including, but not limited to, gunpowder, ammunition, lead, shot, skeet, and trap targets and associated chemicals, derivatives, and constituents thereof.

(e) "Environmental management practices" includes but is not limited to Best Management Practices for Environmental Stewardship of Florida Shooting Ranges as developed by the Department of Environmental Protection. Such practices include, but are not limited to, control and containment of projectiles, prevention of the migration of projectiles and their constituents to ground and surface water, periodic removal and recycling of projectiles, and documentation of actions taken.

(f) "Environment" means the air, water, surface water, sediment, soil, and groundwater and other natural and manmade resources of this state.

(g) "User" means any person, partner, joint venture, business or social entity, or corporation, or any group of the foregoing, organized or united for a business, sport, or social purpose.

(h) "Sport shooting and training range" or "range" means any area that has been designed, or operated for the use of, firearms, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, BB guns, airguns, or similar devices, or any other type of sport or training shooting.

### (4) DUTIES.--

(a) No later than January 1, 2005, the department shall make a good faith effort to provide copies of the Best Management Practices for Environmental Stewardship of Florida Shooting Ranges to all owners or operators of sport shooting or training ranges.

## FLORIDA § 790.333 (CONT'D.)

The department shall also provide technical assistance with implementing environmental management practices, which may include workshops, demonstrations, or other guidance, if any owner or operator of sport shooting or training ranges requests such assistance.

(b) No later than January 1, 2006, sport shooting or training range owners, operators, tenants, or occupants shall implement situation appropriate environmental management practices.

(c) If contamination is suspected or identified by any owner, operator, tenant, or occupant of sport shooting or training ranges, any owner, operator, tenant, or occupant of sport shooting or training ranges may request that the department assist with or perform contamination assessment, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(d) If contamination is suspected or identified by a third-party complaint or adjacent property sampling events, the department shall give 60 days' notice to the sport shooting or training range owner, operator, tenant, or occupant of the department's intent to enter the site for the purpose of investigating potential sources of contamination. The department may assist with or perform contamination assessment, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(e) If the department confirms contamination under paragraph (c) or paragraph (d), principles of risk-based corrective action pursuant to s. 376.30701 shall be applied to sport shooting or training ranges. Application of the minimum risk-based corrective action principles shall be the primary responsibility of the sport shooting range or training range owner or operator for implementation, however, the department may assist in these efforts. Risk-based corrective action plans used for these cleanups shall be based upon the presumption that the sport shooting or training range is an industrial use and not a residential use and will continue to be operated as a sport shooting or training range.

### (5) SPORT SHOOTING AND TRAINING RANGE PROTECTION.--

(a) Notwithstanding any other provision of law, any public or private owner, operator, employee, agent, contractor, customer, lender, insurer, or user of any sport shooting or training range located in this state shall have immunity from lawsuits and other legal actions from the state and any of its agencies, special purpose districts, or political subdivisions for any claims of any kind associated with the use, release, placement, deposition, or accumulation of any projectile in the environment, on or under that sport shooting or training range, or any other property over which the range has an easement, leasehold, or other legal right of use, if the sport shooting or training range owner or operator has made a good faith effort to comply with subsection (4).

FLORIDA § 790.333 (CONT'D.)

(b) Nothing in this act is intended to impair or diminish the private property rights of owners of property adjoining a sport shooting or training range.

(c) The sport shooting and training range protections provided by this act are supplemental to any other protections provided by general law.

**(6) WITHDRAWALS OF CLAIMS AND RECOVERY OF EXPENSES AND ATTORNEY'S FEES.--**

(a) Within 90 days after the effective date of this act becoming law, all claims by the state and any of its agencies, special purpose districts, or political subdivisions against sport shooting or training ranges pending in any court of this state or before any administrative agency on January 1, 2004, shall be withdrawn. The termination of such cases shall have no effect on the defendant's cause of action for damages, reasonable attorney's fees, and costs.

(b) In any action filed in violation of this act after the effective date of this act, the defendant shall recover all expenses resulting from such action from the governmental body, person, or entity bringing such unlawful action.

(7) **PENALTIES.--**Any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who intentionally and maliciously violates the provisions of this section or is party to bringing an action in violation of this section commits a misdemeanor of the first degree, punishable as provided in ss. 775.082 and 775.083.

(8) **PREEMPTION.--**Except as expressly provided by general law, the Legislature hereby declares that it is occupying the whole field of regulation of firearms and ammunition use at sport shooting and training ranges, including the environmental effects of projectile deposition at sport shooting and training ranges.

(9) The provisions of this act shall supersede any conflicting provisions of chapter 376 or chapter 403.

(10) **CONSTRUCTION.--**This act shall be liberally construed to effectuate its remedial and deterrent purposes.

*History.--s. 1, ch. 2004-56.*

GEORGIA – GA. CODE ANN. § 41-1-9

(a) As used in this Code section, the term:

(1) 'Person' means an individual, proprietorship, partnership, corporation, or unincorporated association.

(2) 'Sport shooting range' or 'range' means an area designated and operated by a person for the sport shooting of firearms and not available for such use by the general public without payment of a fee, membership contribution, or dues or by invitation of an authorized person, or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

(3) 'Unit of government' means any of the departments, agencies, authorities, or political subdivisions of the state, cities, municipal corporations, townships, or villages and any of their respective departments, agencies, or authorities.

(b) No sport shooting range shall be or shall become a nuisance, either public or private, solely as a result of changed conditions in or around the locality of such range if the range has been in operation for one year since the date on which it commenced operation as a sport shooting range. Subsequent physical expansion of the range or expansion of the types of firearms in use at the range shall not establish a new date of commencement of operations for purposes of this Code section.

(c) No sport shooting range or unit of government or person owning, operating, or using a sport shooting range for the sport shooting of firearms shall be subject to any action for civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating to noise generated by the operation of the range if the range remains in compliance with noise control or nuisance abatement rules, regulations, statutes, or ordinances applicable to the range on the date on which it commenced operation.

(d) No rules, regulations, statutes, or ordinances relating to noise control, noise pollution, or noise abatement adopted or enacted by a unit of government shall be applied retroactively to prohibit conduct at a sport shooting range, which conduct was lawful and being engaged in prior to the adoption or enactment of such rules, regulations, statutes, or ordinances.

## IDAHO – IDAHO CODE ANN. § 55-2602

### **55-2601. Sport shooting range – liability for noise pollution.**

(1) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport shooting range in this state shall not be 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 was established, constructed or operated prior to the implementation of any noise control laws, ordinances, rules or regulations, or if the range is in compliance with any noise control laws, ordinances, rules or regulations that applied to the range and its operation at the time of establishment, construction or initial operation of the range.

(2) Rules or regulations adopted by a state or local department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this act.

(3) A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance.

### **55-2602. Sport shooting range – nuisance action – limitations.**

(1) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within three (3) years from the beginning of the substantial change.

(2) A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within five (5) years after establishment of the range or three (3) years after a substantial change in use of the range.

(3) If there has been no shooting activity at a range for a period of three (3) years, resumption of shooting is considered establishment of a new shooting range for purposes of this section.

### **55-2603. Local regulation of sport shooting range.**

(1) Except as otherwise provided in this act, this act does not prohibit a local unit of government from regulating the location and construction of a sport shooting range after the effective date of this act.

(2) Nothing in this act limits the ability of a local unit of government to regulate noise produced as a result of a substantial change in the use of the range.

## IDAHO (CONT'D.)

### **55-2604. Definitions.**

As used in this act:

- (1) "Local unit of government" means a county, city or a town.
  
- (2) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity.
  
- (3) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar sport shooting.

ILLINOIS – 740 ILL. COMP. STAT. ANN § 130/5

**Sec. 5. Firearm ranges; liability.**

(a) As used in this Section, "firearm range" means a rifle, pistol, silhouette, skeet, trap, black powder, or other similar range in this State used for discharging firearms in a sporting event, for practice or instruction in the use of a firearm, or for the testing of a firearm. "Firearm range" also includes licensed shooting preserves and public hunting areas operated or licensed by the Department of Natural Resources.

(b) An owner or operator of a firearm range in existence on January 1, 1994, is immune from any criminal liability arising out of or as a consequence of noise or sound emissions resulting from the normal use of the firearm range. An owner or operator of a firearm range is not subject to any action for public or private nuisance or trespass and no court in this State shall enjoin the use or operation of a firearm range on the basis of noise or sound emissions resulting from the normal use of the firearm range.

(c) An owner or operator of a firearm range placed in operation after January 1, 1994, is immune from any criminal liability and is not subject to any action for public or private nuisance or trespass arising out of or as a consequence of noise or sound emissions resulting from the normal use of the firearm range, if the firearm range conforms to any one of the following requirements:

(1) All areas from which a firearm may be properly discharged are at least 1,000 yards from any occupied permanent dwelling on adjacent property.

(2) All areas from which a firearm may be properly discharged are enclosed by a permanent building or structure that absorbs or contains sound energy escaping from the muzzle of firearms in use.

(3) If the firearm range is situated on land otherwise subject to land use zoning, the firearm range is in compliance with the requirements of the zoning authority.

(4) The firearm range is operated by a governmental entity or is licensed by the Department of Natural Resources.

(5) The firearm range met the requirements of clause (1) of this subsection (c) at the time the range began its operation and subsequently an occupied permanent dwelling on adjacent property was built within 1,000 yards from an area of the range from which a firearm may be properly discharged.

INDIANA – IND. CODE ANN. § 14-22-31.5-3

**IC 14-22-31.5-3. "Shooting range" defined.**

Sec. 3. As used in this chapter, "shooting range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, muskets, or similar firearms that are fired at silhouettes, skeet, trap, paper, stillboard, or other similar targets.

**IC 14-22-31.5-4. Repealed.**

**IC 14-22-31.5-5. Local government regulation.**

Sec. 5. Except as specifically prohibited by this chapter, a local unit of government may regulate the location, use, operation, safety, and construction of a shooting range.

**IC 14-22-31.5-6. Liability relating to noise.**

Sec. 6. A person who owns, operates, or uses a shooting range is not liable in any civil or criminal matter relating to noise or noise pollution that results from the normal operation or use of the shooting range if the shooting range complies with a law or an ordinance that applied to the shooting range and its operation at the time of the construction or initial operation of the shooting range, if such a law or ordinance was in existence at the time of the construction or initial operation of the shooting range.

**IC 14-22-31.5-7. Powers of ranges in existence before July 1, 1996.**

Sec. 7. Notwithstanding any ordinance adopted by a local unit of government, a shooting range that is in existence before July 1, 1996, may do the following within the geographic boundaries of the shooting range as it existed on June 30, 1996:

(1) Repair, remodel, or reinforce a building or structure that is needed to ensure public safety or to secure the continued use of the building or structure.

(2) Reconstruct, repair, restore, or resume the use of a nonconforming building that has been damaged by fire, collapse, explosion, act of nature, or war after July 1, 1996.

However, the reconstruction, repair, or restoration must be completed not more than one year after the date of the damage to the building or the settlement of the property damage claim. If the reconstruction, repair, or restoration is not completed within one year, the local unit of government may terminate the continuation of the nonconforming use.

(3) Expand or increase the membership of the shooting range or opportunities for public participation at the shooting range.

## IOWA – IOWA CODE ANN. § 657.9

### **657.9. Shooting ranges.**

Before a person improves property acquired to establish, use, and maintain a shooting range by the erection of buildings, breastworks, ramparts, or other works or before a person substantially changes the existing use of a shooting range, the person shall obtain approval of the county zoning commission or the city zoning commission, whichever is appropriate. The appropriate commission shall comply with section 335.8 or 414.6 . In the event a county or city does not have a zoning commission, the county board of supervisors or the city council shall comply with section 335.6 or 414.5 before granting the approval.

A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been a substantial change in the nature of the use of the range. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

*[82 Acts, ch 1193, §1]*

*84 Acts, ch 1067, §49*

KANSAS – KAN. STAT. ANN. § 58-3221 ET SEQ.

**58-3221. Sport shooting ranges; definitions.**

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.

KENTUCKY – KY. REV. STAT. ANN. § 237.200 ET SEQ.

**237.200 Definitions for KRS 237.210 and 237.220.**

As used in KRS 237.210 and 237.220:

(1) "Shooting range" or "range" means an area designated and operated by a person for the shooting of firearms and not available for that use by the general public without payment of a fee, membership contribution, or dues, or by invitation of an authorized person; or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

(2) "Unit of government" means any of the departments of state government or political subdivisions of the state, cities, counties, urban-counties, or charter counties, or any of their respective departments, agencies, or authorities.

*Effective: July 15, 1998*

*History: Created 1998 Ky. Acts ch. 8, sec. 1, effective July 15, 1998.*

**237.210 Effect of changed conditions on nuisance actions involving shooting ranges -- standing to sue -- limitation of liability -- prohibition against retroactive application of laws.**

(1) No shooting range shall be or shall become a nuisance, either public or private, solely as a result of changed conditions in or around the locality of the range if the range has been in operation for one (1) year since the date on which it commenced operation as a shooting range. Subsequent physical expansion of the range or expansion of the types of firearms in use at the range shall not establish a new date of commencement of operations for purposes of this section unless the change triples the amount of the noise produced by the shooting range. The increase in the noise level at the shooting range shall be measured by an independent testing agency or a unit of government and shall compare the highest noise levels during any one (1) month during which the range is in full operation with a subsequent month in which the range is in full operation and conducting a comparable level of shooting activities. Only a person who lives adjacent to the shooting range shall have standing to bring an action under this section.

(2) No shooting range or unit of government or person owning, operating, or using a shooting range for the shooting of firearms shall be subject to any action for civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating to noise generated by the operation of the range if the range remains in compliance with noise control or nuisance abatement administrative regulations, statutes, or ordinances applicable to the range on the date on which it commenced operation.

(3) No administrative regulations, statutes, or ordinances relating to noise control, noise pollution, or noise abatement adopted or enacted by a unit of government shall be applied retroactively to prohibit conduct at a shooting range, which conduct was lawful and being engaged in prior to the adoption or enactment of the administrative regulations, statutes, or ordinances.

*Effective: July 15, 1998*

LOUISIANA – LA. REV. STAT. ANN. § 30:2053

**§2053. Definitions.**

As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise:

(1) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by other than natural processes.

(2) Repealed by Acts 1999, No. 348, §2, eff. June 16, 1999.

(3)(a) "Toxic air pollutant" means an air pollutant which, based on scientifically accepted data, is known to cause or can reasonably be anticipated to cause either directly or indirectly through ambient concentrations, exposure levels, bioaccumulation levels, or deposition levels, adverse effects in humans, including but not limited to:

- (i) Cancer;
- (ii) Mutagenic, teratogenic, or neurotoxic effects;
- (iii) Reproductive dysfunction;
- (iv) Acute health effects; and
- (v) Chronic health effects.

(b) This definition includes all air pollutants which are identified and listed pursuant to these criteria under R.S. 30:2060. This definition shall also include but not be limited to all substances listed as hazardous air pollutants under rules and regulations of the department in effect on June 1, 1989, and those designated as such under Section 112 of the Federal Clean Air Act. This definition does not include those pollutants for which National Ambient Air Quality Standards have been established under Section 108 of the Federal Clean Air Act, with the exception of lead compounds. This definition does not include elemental lead or those pollutants chosen solely for their contribution to the formation of pollutants regulated under the National Ambient Air Quality Standards.

(4) "Emergency emission" is the discharge into the atmosphere of Louisiana of a toxic air pollutant the rate of which is in excess of that allowed by permit or license and which could not have been avoided by taking measures to prevent the discharge.

(5) Repealed by Acts 2006, No. 445, §2, effective June 15, 2006.

NOTE: Paragraph (5) as enacted by Acts 2006, No. 445, §3, effective July 1, 2007.

(6) "Noise" means the intensity, duration, and the character of sounds from all sources.

## LOUISIANA § 30:2053 (CONT'D.)

(7) "Local governmental entity" means any parish, municipal, or local political subdivision.

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

(9) "Sport shooting range" or "range" means an area designed and operated primarily for: persons using or discharging rifles, shotguns, pistols, revolvers, or black powder weapons; archery; air rifles; silhouettes; skeet ranges; trap ranges; or any other similar sport shooting, if such area is designed and constructed in accordance with the then current publication of the National Rifle Association of America, or its successor, entitled "The Range Manual".

(10) "Substantial change in use" means the current primary use of the facility no longer represents the activity previously engaged in at the site.

*Acts 1979, No. 449, §1, eff. Jan. 1, 1980. Amended by Acts 1982, No. 468, §1; Acts 1984, No. 254, §1; Acts 1989, No. 184, §1, eff. June 23, 1989; Acts 1993, No. 171, §1; Acts 1997, No. 891, §1; Acts 1999, No. 348, §2, eff. June 16, 1999; Acts 2006, No. 445, §2, eff. June 15, 2006; Acts 2006, No. 445, §3, eff. July 1, 2007.*

## LOUISIANA – LA. REV. STAT. ANN. § 30:2055.1

### **§2055.1. Sport shooting range; regulation; noise pollution; nuisance.**

A.(1) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport shooting range in this state shall not be 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 was established, constructed, or operated prior to the implementation of any noise control laws, ordinances, rules, or regulations, or if the range is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the range and its operation at the time of establishment, construction, or initial operation of the range.

(2) Rules or regulations adopted by a state or local department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this Section.

LOUISIANA § 30:2055.1 (CONT'D.)

(3) A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance.

B.(1) Except as provided in this Section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established, constructed, or operated as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within three years of the date of a substantial change in use.

(2) A person who owns property in the vicinity of a shooting range that was established, constructed, or operated after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within five years after establishment of the range or three years after a substantial change in use of the range.

(3) If there has been no shooting activity at a range for a period of two years, resumption of shooting is considered establishment of a new shooting range for purposes of this Section.

C.(1) Except as otherwise provided in this Section, this Section does not prohibit a unit of local government from regulating the location and construction of a sport shooting range after the effective date of this Section.

(2) Nothing in this Section limits the ability of a local unit of government to regulate noise produced as a result of a substantial change in the use of the range.

D. The provisions of R.S. 30:2053(6), (7), (8), and (9) and 2055.1 contained herein shall not alter or otherwise affect lawsuits filed prior to August 15, 1997.

*Acts 1997, No. 891, §1.*

## MAINE – ME. REV. STAT. ANN. TIT. 17 SECTION 2806

### **Title 17 - §2806. Sport shooting ranges.**

1. **Acquisition of property near existing range.** Except as provided in this subsection, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within 3 years from the beginning of the substantial change. [1995, c. 231, §1 (new).]

2. **Establishment of shooting range near existing property.** A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within 5 years after establishment of the range or 3 years after a substantial change in use of the range. [1995, c. 231, §1 (new).]

3. **Dormant shooting range.** If there has been no shooting activity at a range for a period of 3 years, resumption of shooting is considered establishment of a new shooting range for purposes of this section. [1995, c. 231, §1 (new).]

4. **Application.** This section does not limit nuisance actions against shooting ranges established after the effective date of this section. [1995, c. 231, §1 (new).]

## MAINE - ME. REV. STAT. ANN. TIT. 30-A SECTION 3011

### **Title 30-A §3011. Regulation of sport shooting ranges.**

1. **Definition.** As used in this section, "sport shooting range" means an area designed and used for archery, skeet and trap shooting or other similar shooting sports and the shooting of rifles, shotguns and pistols. [1995, c. 231, §2 (new).]
2. **Limitation.** A municipal noise control ordinance may not require or be applied so as to require a sport shooting range to limit or eliminate shooting activities that have occurred on a regular basis at the range prior to the enactment date of the ordinance. [1995, c. 231, §2 (new).]
3. **Expansion of activity.** Nothing in this section limits the ability of a municipality to regulate noise produced by the expansion of activity at a sport shooting range. [1995, c. 231, §2 (new).]

MARYLAND – MD CODE ANN. ENVIR. § 3-105.

§ 3-105.

(a) (1) Except as provided in this section, this title does not limit the power of a political subdivision to adopt noise control ordinances, rules, or regulations.

(2) A political subdivision may not adopt any noise control ordinance, rule, or regulation that is less stringent than the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

(3)(i) A political subdivision may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2001.

(ii) This paragraph does not apply in Allegany, Anne Arundel, Baltimore City, Calvert, Charles, Garrett, Howard, Montgomery, St. Mary's, and Washington counties.

(4)(i) Except as provided in subparagraph (ii) of this paragraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may not adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that is chartered and in operation as of January 1, 2005.

(ii) 1. Subject to the provisions of sub-subparagraph 2 of this subparagraph, Allegany County, Anne Arundel County, Garrett County, Washington County, or a political subdivision of Allegany County, Anne Arundel County, Garrett County, or Washington County may adopt any noise control ordinance, rule, or regulation, including the environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title, that prohibits trapshooting, skeetshooting, or other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines is not in compliance as of January 1, 2005 with environmental noise standards, sound level limits, or noise control rules or regulations adopted under this title.

2. A noise control ordinance, rule, or regulation adopted under subparagraph 1 of this subparagraph shall allow trapshooting, skeetshooting, and other target shooting between the hours of 9 a.m. and 10 p.m. by a shooting sports club that the Department determines has become compliant with environmental noise standards, sound level limits, and noise control rules and regulations adopted under this title.

## MARYLAND (CONT'D.)

(b) Each political subdivision:

(1) Shall send to the Department a copy of each noise control ordinance, rule, or regulation that it adopts;

(2) Shall identify on each zoning map, comprehensive plan, or other appropriate document the sound level limits that are adopted under Subtitle 4 of this title; and

(3) Is encouraged to consider:

(i) Compliance with State or local noise standards before acting on any proposed variance requests or changes in zoning classifications; and

(ii) Whether the permit or activity will be in compliance with local and State noise control standards, prior to the issuance of a building, activity permit, or similar authorizing document.

MASSACHUSETTS – MASS. GEN. LAWS ANN. CH. 214 § 7B

**Chapter 214. Section 7B Noise pollution; shooting ranges; exemption from liability; hours of operation.**

Section 7B. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, no owner of a rifle, pistol, silhouette, skeet, trap, blackpowder, or other similar range shall be liable in any civil action or criminal prosecution in any matter relating to noise or noise pollution resulting from use of the range, provided said owner of the range was in compliance with any applicable noise control law, ordinance or by-laws in existence at the time of the construction of such range.

No owner shall be liable in any action for nuisance, and no court shall enjoin the use or operation of said range on the basis of noise or noise pollution, provided said owner was in compliance with any noise control law, ordinance or by-laws in existence at the time of the construction of the range.

The exemptions from liability and the immunities from prosecution provided in this section shall also extend to any owner who, in order to satisfy a requirement of law, regulation or by-law, relocates his range within the same parcel of land or a contiguous parcel of land, owned by him at the time that the commonwealth or its political subdivision commences enforcement of such a requirement or that the owner voluntarily complies with such a requirement. In order to maintain these exemptions from liability and immunities from prosecution, owners who relocate their ranges pursuant to the preceding sentence shall remain in compliance with the applicable noise control laws, ordinances or by-laws in existence at the time of the construction of the original range described in the first paragraph.

No standards in rules adopted by any state, city, or town agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to the ranges exempted from liability under the provisions of this section. Such ranges shall be prohibited from operating between the hours of ten o'clock post meridian and eight o'clock ante meridian unless otherwise allowed by the local governing body.

MICHIGAN – MICH. COMP. LAWS § 691.1541 ET SEQ.

**691.1541. Definitions.**

Sec. 1. As used in this act:

(a) “Generally accepted operation practices” means those practices adopted by the commission of natural resources that are established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs that include training individuals in the safe handling and use of firearms, which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges. The generally accepted operation practices shall be reviewed at least every 5 years by the commission of natural resources and revised as the commission considers necessary. The commission shall adopt generally accepted operation practices within 90 days of the effective date of section 2a.

(b) “Local unit of government” means a county, city, township, or village.

(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, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

**691.1542. Sport shooting ranges; civil liability or criminal prosecution; state rules or regulations.**

Sec. 2.

(1) Notwithstanding any other provision of law, and in addition to other protections provided in this act, a person who owns or operates or uses a sport shooting range that conforms to generally accepted operation practices in this 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 that applied to the range and its operation at the time of construction or initial operation of the range.

(2) In addition to other protections provided in this act, a person who owns, operates, 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 operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

## MICHIGAN (CONT'D.)

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

*History: 1989, Act 269, Eff. Dec. 26, 1989 ;--Am. 1994, Act 250, Eff. July 5, 1994 .*

## MINNESOTA – CHAPTER 87A

### **87A.001 Application of laws 2005, chapter 56, terminology changes.**

State agencies shall use the terminology changes specified in Laws 2005, chapter 56, section 1, when printed material and signage are replaced and new printed material and signage are obtained. State agencies do not have to replace existing printed material and signage to comply with Laws 2005, chapter 56, sections 1 and 2. Language changes made according to Laws 2005, chapter 56, sections 1 and 2, shall not expand or exclude eligibility to services.

*History: 2005 c 56 s 3*

### **87A.01 Definitions.**

Subd. 1. **Applicability.** The definitions in this section apply to sections 87A.01 to 87A.08.

Subd. 2. **Person.** "Person" means an individual, association, proprietorship, partnership, corporation, club, political subdivision, or other legal entity.

Subd. 3. **Shooting range or range.** "Shooting range" or "range" means an area or facility designated or operated primarily for the use of firearms, as defined in section 97A.015, subdivision 19, or archery, and includes shooting preserves as described in section 97A.115 or any other Minnesota law.

Subd. 4. **Shooting range performance standards.** "Shooting range performance standards" means those rules adopted by the commissioner of natural resources under section 87A.02 for the safe operation of shooting ranges.

Subd. 5. **Local unit of government.** "Local unit of government" means a home rule charter or statutory city, county, town, or other political subdivision.

*History: 2005 c 105 s 1*

### **87A.02 Shooting range performance standards.**

Subd. 1. **Adoption of standards; review.** (a) The commissioner of natural resources must develop and adopt shooting performance standards, according to the expedited rulemaking process under section 14.389. The shooting range performance standards must provide for compliance with applicable noise standards under section 87A.05 and for the safe use of shooting ranges within their boundaries, including the containment of projectiles.

(b) The shooting range performance standards must provide for the operation of shooting preserves within the boundaries of the preserve, including an exemption from any discharge distance limitations generally applicable to hunting on other land, when the shooting preserve is in compliance with all other applicable laws and is in operation on or before the effective date of the performance standards adopted under this section or prior to the development of any structure that would cause the preserve to be out of compliance with the discharge distance.

(c) The commissioner must review the shooting range performance standards at least once every five years and revise them if necessary for the safe operation of shooting ranges.

(d) In the adoption of any amendments to the shooting range performance standards adopted under paragraph (a), the commissioner shall follow all notice and public hearing

## MINNESOTA (CONT'D.)

requirements for the regular rule adoption process under sections 14.001 to 14.28.

Subd. 2. **Interim standards.** Until the commissioner of natural resources adopts the shooting range performance standards under subdivision 1, paragraph (a), the November 1999 revised edition of the National Rifle Association's Range Source Book: A Guide to Planning and Construction shall serve as the interim shooting range performance standards, having the full effect of the shooting range performance standards for purposes of this chapter. The interim shooting range performance standards sunset and have no further effect under this chapter upon the effective date of the shooting range performance standards adopted under subdivision 1, paragraph (a).

*History: 2005 c 105 s 2*

### **87A.03 Compliant ranges; authorized activities.**

Subd. 1. **Authorized activities.** A shooting range that operates in compliance with the shooting range performance standards must be permitted to do all of the following within its geographic boundaries, under the same or different ownership or occupancy, if done in accordance with shooting range performance standards:

- (1) operate the range and conduct activities involving the discharge of firearms;
- (2) expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range;
- (3) make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards;
- (4) increase events and activities related to the primary activity as a shooting range;
- (5) conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m. A local unit of government with zoning jurisdiction over a shooting range may extend the hours of operation by the issuance of a special or conditional use permit; and
- (6) acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this chapter.

Subd. 2. **Nonconforming use.** A shooting range that is a nonconforming use shall be allowed to conduct additional shooting activities within the range's lawful property boundaries as of the date the range became a nonconforming use, provided the shooting range remains in compliance with noise and shooting range performance standards under this chapter.

Subd. 3. **Compliance with other law.** Nothing in this section exempts any newly constructed or remodeled building on a shooting range from compliance with fire safety, disability accessibility, elevator safety, bleacher safety, or other provisions of the State Building Code that have mandatory statewide application.

*History: 2005 c 56 s 1; 2005 c 105 s 3*

### **87A.04 Mitigation area.**

(a) Except for those uses, developments, and structures in existence or for which approval has been granted by October 1, 2005, or as provided in paragraph (b), no change in use, new development, or construction of a structure shall be approved for any portion of property within 750 feet of the perimeter property line of an outdoor shooting range if the

## MINNESOTA (CONT'D.)

change in use, development, or construction would cause an outdoor shooting range in compliance with this chapter to become out of compliance.

(b) A change in use, new development, or construction of a structure subject to this section may be approved if the person seeking the approval or, at the discretion of the governing body, the approving authority agrees to provide any mitigation required to keep the range in compliance with this chapter. The person requesting an approval subject to this section is responsible for providing documentation if no mitigation is required under this section. Failure to provide the documentation or any mitigation required under this section exempts the range from being found out of compliance with the shooting range performance and noise standards of this chapter with regard to the property responsible for the mitigation if the failure to provide the documentation or required mitigation is the sole basis for the range being out of compliance with the shooting range performance standards. Any action brought by the owner of the property against the range is subject to section 87A.06. With the permission of the range operator, any mitigation required under this section may be provided on the range property.

*History: 2005 c 105 s 4*

### **87A.05 Noise standards.**

Allowable noise levels for the operation of a shooting range are the levels determined by replacing the steady state noise L10 and L50 state standards for each period of time within each noise area's classification with a single Leq(h) standard for impulsive noise that is two dBA lower than that of the L10 level for steady state noise. The noise level shall be measured outside of the range property at the location of the receiver's activity according to Minnesota Rules, parts 7030.0010 to 7030.0080, as in effect on May 28, 2005. For purposes of this section, "Leq(h)" means the energy level that is equivalent to a steady state level that contains the same amount of sound energy as the time varying sound level for a 60-minute time period.

*History: 2005 c 105 s 5*

### **87A.06 Nuisance actions; compliance with shooting range performance standards.**

A person who owns, operates, or uses a shooting in this state that is in compliance with shooting performance standards is not subject to any nuisance action for damages or equitable relief based on noise or other matters regulated by the shooting performance standards. This section does not prohibit other actions.

*History: 2005 c 105 s 6*

### **87A.07 Closure of shooting ranges.**

Subd. 1. **Closure.** Except as otherwise provided in sections 87A.01 to 87A.08, a shooting that is in compliance with shooting range performance standards and the requirements of sections 87A.01 to 87A.08 shall not be forced to permanently close or permanently cease any activity related to the primary use of the shooting range unless the range or activity is found to be a clear and immediate safety hazard by a court of

## MINNESOTA (CONT'D.)

competent jurisdiction. In any action brought to compel the permanent closure of any range in compliance with shooting range performance standards and this chapter, or to permanently cease any activity related to the primary use of the shooting range, there is a rebuttable presumption that the range or activity is not a clear and immediate safety hazard. If the shooting range provides evidence that the cause of a proven safety hazard can be mitigated so as to eliminate the safety hazard, the court shall not order the permanent closure of the range, or permanent ceasing of the activity found to be a clear and immediate safety hazard, unless the range operator fails to implement the necessary mitigation to remove the safety hazard by the date that is determined reasonable by the court.

Subd. 2. **Preliminary injunctions.** Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a probable clear and immediate safety hazard, or against any individual determined to be the probable cause of an alleged clear and immediate safety hazard, pending the final determination of the existence of the safety hazard.

Subd. 3. **Permanent injunctions.** A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also pose a safety hazard under this section.

*History: 2005 c 105 s 7*

### **87A.08 Applicability of other laws.**

Subd. 1. **Public safety laws; zoning.** (a) Nothing in this chapter prohibits enforcement of any federal law. To the extent consistent with this chapter, other state laws regarding the health, safety, and welfare of the public may be enforced. To the extent consistent with this chapter, a local unit of government with zoning authority jurisdiction over a shooting range may enforce its applicable ordinances and permits. Nothing in this chapter shall supersede more restrictive regulation of days and hours of operation imposed by the terms and conditions of ordinances and permits that are in effect on May 28, 2005.

(b) If the operator of the shooting range shows evidence that the range can be brought into compliance with the applicable state law, local ordinance, or permit, the range may not be permanently closed unless the range operator fails to bring the range into compliance with the applicable law, ordinance, or permit under this section by the date that the court determines reasonable. Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a violation of a law, ordinance, or permit under this section or against any individual determined to be causing an alleged violation, pending the final determination of the existence of the violation.

Subd. 2. **Permanent injunctions.** A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also create a violation under this section.

*History: 2005 c 105 s 8*

MISSISSIPPI – MISS. CODE ANN. § 95-13-1

**95-13-1.**

(1) As used in this section, unless the context otherwise requires:

(a) "Local unit of government" means a county, municipality or other entity of local government;

(b) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity; and

(c) "Sport-shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting which complies with the provisions of subsection (3) of this section.

(2) (a) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport-shooting range in this state is not subject to civil liability or criminal prosecution for noise or noise pollution resulting from the operation or use of the range if the range is in compliance with all noise control laws, resolutions, ordinances or regulations, issued by a local unit of government, that applied to the range and its operation at the time the range was constructed and began operation.

(b) A person who operates or uses a sport-shooting range is not subject to an action for nuisance, and a court of the state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with all noise control laws, resolutions, ordinances or regulations issued by a unit of local government that applied to the range and its operation at the time the range was constructed and began operation.

(c) A person who subsequently acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin or impede the use of the range where there has not been a substantial change in the nature of the use of the range or by a person using the range.

(e) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibels which may occur in the outdoor atmosphere shall not apply to a sport-shooting range exempted from liability under this section.

(f) Notwithstanding any other provision of law to the contrary, nothing in this section shall be construed to limit civil liability except in the limited case of noise pollution.

(3) (a) In order to qualify for the limitation of liability afforded by this act, a sport-shooting range must be located wholly within a tract or parcel of land consisting of not less than three hundred twenty (320) contiguous acres. All persons owning property any part of which lies within one thousand (1,000) yards of any boundary of the sport-shooting range property shall have standing to appear and object to the location of the sport-shooting range at a hearing to be conducted by the Industrial Development Authority Board.

## MISSISSIPPI (CONT'D.)

(b) The person seeking to operate the range and secure the limitation of liability afforded by this act shall bear the expense of the hearing and other costs associated therewith.

(c) Actual notice shall be afforded to all persons having standing to object if the identity and addresses of those persons can be determined by examining the property tax records of the county. Actual notice shall be made in writing mailed via first class mail, postage prepaid, not less than thirty (30) days prior to the date set for the hearing.

(d) Publication shall be made in a newspaper of general circulation in the county once a week for three (3) weeks, the first such publication to be made not less than thirty (30) days prior to the date of the hearing.

(e) Claims of persons who do not appear and object shall be barred as provided in this act.

(f) Notwithstanding any provision of this act to the contrary, the cause of action of any person owning property in the vicinity of the proposed range and having standing to object prior to the time of the hearing shall not be barred by the provisions of this act provided the property owner registers his complaint with the board at or before the hearing.

MISSOURI – MO. REV. STAT. § 537.294

**Section 537.294. Firearm ranges defined--not to be deemed a nuisance, when--immunity from criminal liability for noise of normal use--requirement.**

1. As used in this section, the term "firearm range" means any rifle, pistol, silhouette, skeet, trap, blackpowder or other similar range in this state used for discharging firearms in a sporting event or for practice or instruction in the use of a firearm, or for the testing of a firearm.

2. All owners of firearm ranges in existence on August 13, 1988, shall be immune from any criminal liability arising out of or as a consequence of noise or sound emission resulting from the normal use of any such firearm range. Owners of such firearm ranges shall not be subject to any action for public or private nuisance or trespass and no court in this state shall enjoin the use or operation of such firearm ranges on the basis of noise or sound emission resulting from the normal use of any such firearm range. The term "normal use" of a firearm range, as used in this subsection, means the average level of use of the firearm range during the twelve months preceding August 13, 1988.

3. All owners of firearms ranges placed in operation after August 13, 1988, shall be immune from any criminal liability and shall not be subject to any action for public or private nuisance or trespass arising out of or as a consequence of noise or sound emission resulting from the normal use of any such firearm range, if such firearm range conforms to any one of the following requirements:

(1) Any area from which any firearm may be properly discharged is at least one thousand yards from any occupied permanent dwelling on adjacent property;

(2) Any area from which any rifle or pistol may be properly discharged is enclosed by a permanent building or structure that absorbs or contains the sound energy escaping from the muzzle of firearms in use; or

(3) If the firearm range is situated on land otherwise subject to land use zoning, the firearm range is in compliance with the requirements of the zoning authority regarding the sound deflection or absorbent baffles, barriers, or other sound emission control requirements.

MONTANA – MT. CODE ANN. § 45-8-111

**45-8-111. Public nuisance.**

(1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or maintains a public nuisance.

(3) Any act which affects an entire community or neighborhood or any considerable number of persons (as specified in subsection (1)(a)) is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

(6) A person convicted of maintaining a public nuisance shall be fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both. Each day of such conduct constitutes a separate offense.

*History: En. by Sec. 1, Ch. 513, L. 1973; Sec. 30, Ch. 359, L. 1977; R.C.M. 1947, (1) thru (4); Sec. 2, Ch. 123, L. 1981; Sec. 9, Ch. 415, L. 1991*

## MONTANA - MT. CODE ANN. § 76-9-101 ET SEQ.

### **76-9-101. Policy.**

It is the policy of the state of Montana to provide for the health, safety, and welfare of the citizens of the state by promoting the safety and enjoyment of the shooting sports among the citizens of the state and by protecting the locations of and investment in shooting ranges for shotgun, archery, rifle, and pistol shooting.

History: Sec. 1, Ch. 415, L. 1991.

### **76-9-102. Prohibitions.**

(1) Standards adopted by a state agency or unit of local government to limit levels of noise that may occur in the outdoor atmosphere may not apply to shooting ranges.

(2) Standards adopted by a state agency or unit of local government promulgated pursuant to Title 75 and concerning pollution by lead, copper, or brass may not limit or prohibit the operation of a shooting range because of lead, copper, or brass deposition resulting from shooting activities.

History: Sec. 2, Ch. 415, L. 1991.

### **76-9-103. Planning -- effect on shooting ranges.**

The laws of this state concerning planning, master plans, or comprehensive plans may not be construed to authorize an ordinance, resolution, or rule that would:

- (1) prevent the operation of an existing shooting range as a nonconforming use;
- (2) prohibit the establishment of new shooting ranges, but it may regulate the construction of shooting ranges to specified zones; or
- (3) prevent the erection or construction of safety improvements on existing shooting ranges.

History: Sec. 3, Ch. 415, L. 1991.

### **76-9-104. Zoning -- effect on shooting ranges.**

A planning district growth policy, recommendation, resolution, rule, or zoning designation may not:

- (1) prevent the operation of an existing shooting range as a nonconforming use;

## MONTANA (CONT'D.)

(2) prohibit the establishment of new shooting ranges, but it may regulate the construction of shooting ranges to specified zones; or

(3) prevent the erection or construction of safety improvements on existing shooting ranges.

*History: Sec. 4, Ch. 415, L. 1991; amd. Sec. 33, Ch. 582, L. 1999.*

### **76-9-105. Closure of shooting ranges -- limitations -- relocation cost.**

(1) Except as provided in subsection (2), an established shooting range may not be prevented from operation by a state agency, unit of local government, or court unless the range presents a clear and provable safety hazard to the adjacent population.

(2) If a pressing public need exists because of incompatibility with nearby population or land use, an established shooting range may be relocated by an agency of state government, unit of local government, or court, but only if all of the following conditions are met:

(a) pressing public need is documented through hearings, testimony, and a clear and precise statement of need by the agency, unit of local government, or court involved;

(b) the agency or unit of local government obtaining the closure pays the appraised cost of the land together with improvements to the operators of the shooting range. In return the shooting range operators shall relinquish their interest in the property to the agency or unit of local government obtaining the closure.

(3) If a shooting range presents a clear and provable safety hazard to adjacent population, the range may be suspended from operation if:

(a) reasonable notice and opportunity to respond are afforded the range operators; and

(b) reasonable opportunity is afforded the range operators to correct any safety defects.

*History: Sec. 5, Ch. 415, L. 1991.*

## NEVADA – NEV. REV. STAT. § 40.140

### **40.140. Nuisance defined; action for abatement and damages; exceptions.**

1. Except as otherwise provided in this section, anything which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, including, without limitation, a building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043, is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997. EA shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section, “shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

[1911 CPA § 562; RL § 5504; NCL § 9051]—(NRS A 1985, 873; 1997, 951, 1471, 1472)

### **202.450. Definition.**

1. A public nuisance is a crime against the order and economy of the state.

2. Every place:

## NEVADA (CONT'D.)

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043 is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort, is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property, is a public nuisance.

4. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

5. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

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A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.  
6. As used in this section, "shooting range" has the meaning ascribed to it in NRS 40.140.

### 244.363.

Except as otherwise provided in subsection 3 of NRS 40.140 and subsection 5 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

### 266.335.

The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection 5 of NRS 202.450, determine by ordinance what shall be deemed nuisances.
2. Provide for the abatement, prevention and removal of such nuisances at the expense of the person creating, causing or committing such nuisances.
3. Provide that such expense of removal is a lien upon the property upon which the nuisance is located. Such lien must:
  - (a) Be perfected by filing with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.
  - (b) Be coequal with the latest lien thereon to secure the payment of general taxes.
  - (c) Not be subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.
  - (d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.
4. Provide any other penalty or punishment of persons responsible for such nuisances.

### 268.412.

Except as otherwise provided in subsection 3 of NRS 40.140 and subsection 5 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

*Enacted in 1973, amended in 1977, 1985, 1997 and 1999.  
Reviewed by AAHS in June 2001.*

NEW HAMPSHIRE – N.H. REV. STAT. ANN. § 159-B:1 - 3

**159-B:1 Exemption.** Notwithstanding the provisions of RSA 644:2, III(a) or any other law to the contrary, no person who owns, operates, or uses a shooting range in this state shall be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution, provided that the owners of the range are in compliance with any applicable noise control ordinances in existence at the time the range was established, was constructed, or began operations.

**159-B:2 Injunctions.** The owners, operators, or users of shooting ranges shall not be subject to any action for nuisance and no court shall enjoin the use or operation of a range on the basis of noise or noise pollution, provided that the owners of the range are in compliance with any noise control ordinance that was in existence at the time the range was established, was constructed, or began operations.

**159-B:3 Expansion.** Subsequent physical expansion of the shooting range or change in the types of firearms in use at the range shall not establish a new date of commencement of operations for the portion or portions in existence prior to the expansion for the purposes of this chapter.

NEW JERSEY – N.J. STAT. ANN. § 13:1G-21.2 & 13:1G-21.3

**13:1G-21.2. Immunity from liability.**

Notwithstanding the provisions of section 21 of P.L.1971, c.418 (C.13:1G-21) to the contrary, an owner of a handgun, rifle, shotgun, skeet shooting or trapshooting range in this State shall be immune from liability where the liability is based upon noise resulting from normal operation of the range in any civil proceeding, or in any proceeding brought pursuant to the "Noise Control Act of 1971," P.L.1971, c.418 (C.13:1G-1 et seq.).

Nothing in this section shall be deemed to grant immunity to any person causing damage by his willful, wanton, or grossly negligent act of commission or omission.

*L.1991,c.391,s.2.*

**13:1G-21.3. Applicability.**

3. This act shall apply only to a handgun, rifle, shotgun, skeet shooting or trapshooting range located in this State which has been maintained continuously in the same location since January 24, 1972.

*L.1991,c.391,s.3.*

## NEW MEXICO – N.M. STAT. ANN. § 17-8-1 ET SEQ.

### **17-8-1. Short title.**

This act [17-8-1 NMSA 1978] may be cited as the "Sport Shooting Range Act"

### **17-8-2. Purpose of act.**

The purpose of the Sport Shooting Range Act [17-8-1 NMSA 1978] is to protect the normal operation and use of sport shooting ranges by establishing when a person who owns, operates or uses a sport shooting range is liable for civil penalties.

### **17-8-3. Definition.**

As used in the Sport Shooting Range Act [ 17-8-1 to 17-8-6 NMSA 1978], a "sport shooting range" is an area designed and operated for the use of rifles, shotguns or pistols as a means of silhouette, skeet, trap, black powder or other sport shooting or firearms training.

### **17-8-4. Immunity from nuisance actions based on noise or noise pollution.**

A. The use or operation of a sport shooting range shall not be enjoined as a nuisance on the basis of noise or noise pollution:

(1) if the sport shooting range is in compliance with noise control statutes, rules or ordinances that apply to the range and its operation at the time that the initial operation of the range commenced;

(2) due to changes made to noise control statutes, rules or ordinances that apply to the sport shooting range and its operation, if the changes take effect after the initial operation of the range commenced; or

(3) if noise control statutes, rules or ordinances were not in effect at the time that the original operation of the sport shooting range commenced.

B. The use or operation of a sport shooting range may not be enjoined as a nuisance on the basis of noise or noise pollution by a person who acquires an interest in real property adversely affected by the normal operation and use of a sport shooting range that commenced operation prior to the time the person acquired the interest in real property.

### **17-8-5. Local government authority.**

The provisions of the Sport Shooting Range Act [17-8-1 NMSA 1978] shall not prohibit a local government from regulating the location and construction of sport shooting ranges after July 1, 2002.

## NEW MEXICO (CONT'D.)

The provisions of the Sport Shooting Range Act [17-8-1 NMSA 1978] do not apply:

A. to recovery for an act or omission relating to recklessness, negligence, wanton misconduct or willful misconduct in the operation or use of a sport shooting range;

B. to a nuisance action on the basis of trespass involving the operation or use of a sport shooting range;

C. to the operation or use of a sport shooting range that substantially and adversely affects public health or public safety; or

D. if there has been a substantial change in the primary use of a sport shooting range.

**Effective date.** The effective date of the provisions of this act is July 1, 2002.

NEW YORK – N.Y. GEN. BUS. LAW § 150

**General Business Law §150. Shooting ranges.**

1. In any action or proceeding commenced against an owner or user of a shooting range where one or more causes of action asserts a claim based on noise or noise pollution resulting from the inherent shooting activity on such shooting range, it shall be an affirmative defense that, at the time of the commencement of the action or proceeding, the shooting range is in compliance with any applicable noise control laws or ordinances, or, if the applicable noise control laws or ordinances have no legal force and effect against such owner or user or there are no applicable noise control laws or ordinances at the time of the effective date of this section, then the A-weighted sound level of small arms fire on the shooting range does not exceed 90 dB(A) for one hour out of a day, or does not exceed 85 dB(A) for eight hours out of a day measured at, or adjusted to, a distance of one hundred feet outside the real property boundary of the shooting range. An owner or user may move for judgment dismissing one or more causes of action asserted against him on the ground that a cause of action cannot be maintained because of such affirmative defense.

2. Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a person under any other law.

3. Notwithstanding the provisions of subdivisions one and two of this section, no shooting range shall be operated during the period from 10:00 PM until 7:00 AM unless a local law or ordinance specifically authorizes the operation of a shooting range during all or any portion of such time period.

4. For the purposes of this section:

(a) "Shooting range" shall mean an outdoor range equipped with targets for use with firearms and shall include, but not be limited to, all rifle, pistol and shotgun ranges.

(b) "A-weighted sound level" shall mean the sound pressure level measured by the use of an instrument with the metering characteristics and A-weighting frequency response prescribed by sound level meters using the impulse response mode.

(c) "Sound pressure level" shall mean twenty times the logarithm to the base ten of the ratio of the root mean squared pressure of a sound to a reference pressure of twenty micropascals. The unit applied to this measure shall be the decibel (dB).

(d) "Small arms" shall mean projectile firearms of small caliber, including rifles, pistols, and shotguns.

NORTH CAROLINA – N.C. GEN. STAT. § 14-409.45 ET SEQ.

**§ 14-409.45. Definitions.**

The following definitions apply in this Article:

(1) Person - An individual, proprietorship, partnership, corporation, club, or other legal entity.

(2) Sport Shooting range or range. – An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

(3) Substantial change in use. – The current primary use of the range no longer represents the activity previously engaged in at the range. (1997-465, s. 1.)

**§ 14-409.46. Sport shooting range protection.**

(a) Notwithstanding any other provision of law, a person who owns, operates, or uses a sport shooting range in this State shall not be 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 was in existence at least three years prior to the effective date of this Article and the range was in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(b) A person who owns, operates, or uses a sport shooting range is not subject to an action for nuisance on the basis of noise or noise pollution, and a State court shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range was in existence at least three years prior to the effective date of this Article and the range was in compliance with any noise control laws or ordinances that applied to the range and its operation at the time the range began operation.

(c) Rules adopted by any State department or agency for limiting levels of noise in terms of decibel level that may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this Article.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution against the person who owns the range to restrain, enjoin, or impede the use of the range. If there is a substantial change in use of the range after the person acquires title, the person may maintain a nuisance action if the action is brought within one year of the date of a substantial change in use. This section does not prohibit actions for negligence or recklessness in the operation of the range or by a person using the range.

(e) A sport shooting range that is operated and is not in violation of existing law at the time of the enactment of an ordinance and was in existence at least three years prior to the effective date of this Article, shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or an amendment to an existing ordinance, provided there has been no substantial change in use. (1997-465, s. 1.)

## NORTH CAROLINA (CONT'D.)

### **§ 14-409.47. Application of article.**

Except as otherwise provided in this Article, this Article does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this Article. (1997-465, s. 1.)

NORTH DAKOTA – N.D. CEN. CODE § 42-01-01.1

**42-01-01.1. Sport shooting range deemed not a nuisance.**

If a sport shooting range has been in operation for one year since the date on which it began operation as a sport shooting range, it does not become a public or private nuisance as a result of changed conditions in or around the locality of the sport shooting range. If a sport shooting range remains in compliance with noise control or nuisance abatement rules or ordinances in effect on the date on which it commenced operation, it is not subject to a civil or criminal action resulting from or relating to noise generated by the operation of the sport shooting range. A person who acquires title to real property that is adversely affected by the operation of a permanently located and improved sport shooting range constructed and initially operated before that person acquired title to the property adversely affected may not maintain a civil action on the basis of noise or noise pollution against the person who owns or operates the sport shooting range. A rule, resolution, or ordinance relating to noise control, noise pollution, or noise abatement adopted by the state or a political subdivision may not be applied to prohibit the operation of a sport shooting range, provided the conduct was lawful and being conducted before the adoption of the rule, resolution, or ordinance. Except as otherwise provided in this section, a political subdivision may regulate the location and construction of a sport shooting range after August 1, 1999. Notwithstanding any other provision of law, a county or city enacting a home rule charter under chapter 11-09.1, 40-05.1, or 54-40.4 may not regulate a sport shooting range except as otherwise provided in this section. As used in this section, sport shooting range means an area designated and operated by a person for the sport shooting of firearms or any area so designated and operated by the state or a political subdivision, regardless of the terms for admission to the sport shooting range.

## OHIO – OHIO REV. CODE ANN. § 1533.83 ET SEQ.

### § 1533.83. Definitions.

As used in sections 1533.83 to 1533.85 of the Revised Code:

(A) "Political subdivision" means a municipal corporation, township, county, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(B) "Shooting range" means a facility operated for the purpose of shooting with firearms or archery equipment, whether publicly or privately owned and whether or not operated for profit, including, but not limited to, commercial bird shooting preserves and wild animal hunting preserves established pursuant to this chapter. "Shooting range" does not include a facility owned or operated by a municipal corporation, county, or township police district.

(C) "Harm" means injury, death, or loss to person or property.

(D) "The chief's noise rules" means the rules of the chief of the division of wildlife that are adopted pursuant to section 1533.84 of the Revised Code and that pertain to the limitation or suppression of noise at a shooting range or to the hours of operation of shooting ranges.

(E) "The chief's public safety rules" means the rules of the chief of the division of wildlife that are adopted pursuant to section 1533.84 of the Revised Code and that pertain to public safety, including standards for the reconstruction, enlargement, remodeling, or repair of any structure or facility that is part of a shooting range.

### § 1533.84. Standards for shooting ranges.

The chief of the division of wildlife, in accordance with section 1531.10 of the Revised Code, shall adopt rules establishing generally accepted standards for shooting ranges. These rules shall be no more stringent than national rifle association standards, and include standards for the limitation and suppression of noise, standards for the hours of operation of shooting ranges of the various types and at the various locations of ranges, and standards for public safety. The rules may include standards for the reconstruction, enlargement, remodeling, or repair of any structure or facility that is part of a shooting range provided that any local laws creating standards for the reconstruction, enlargement, remodeling, or repair of structures or facilities that apply generally to all structures or facilities and not exclusively or primarily to shooting ranges also shall apply to shooting ranges. Nothing in this section limits the authority of a county or township board of zoning appeals to issue or deny conditional zoning certificates for the reconstruction, enlargement, remodeling, or repair of an existing shooting range pursuant to division (C) of section 303.14 or division (C) of section 519.14 of the Revised Code or the authority of a board of county commissioners or board of township trustees relating to the completion, restoration, reconstruction, extension, or substitution of nonconforming uses pursuant to section 303.19 or 519.19 of the Revised Code. At the time of its establishment, a shooting range shall comply with all existing local ordinances, regulations, or laws.

## OHIO (CONT'D.)

The chief of the division of wildlife shall consult with a representative sample of persons and organizations that own, operate, or use shooting ranges and persons and organizations that represent counties, townships, municipal corporations, and holders of real property adjoining shooting ranges prior to filing or amending the rules required or authorized under this section in accordance with section 1531.10 of the Revised Code. A draft copy of the chief's proposed rules or any subsequent amendments to the rules shall be submitted to representatives of the above-listed organizations, who shall be given thirty days to review and submit written comments on the draft rules to the chief. The chief shall consider but not be bound by the written comments and, after giving due regard to the public interests, shall file the initial rules in accordance with section 1531.10 of the Revised Code within one hundred eighty days after the effective date of this section.

### **§ 1533.85. Immunity concerning shooting range noise; injunctive relief prohibited.**

(A) (1) The owner, operator, or user of a shooting range is not liable in damages in a civil action to any person for harm that allegedly is caused by the creation of noise at the shooting range or the failure to limit or suppress noise at the shooting range if the owner, operator, or user substantially complies with the chief's noise rules.

(2) (a) Division (A) of this section does not create a new cause of action or substantive legal right against an owner, operator, or user of a shooting range.

(b) Division (A) of this section does not affect any immunities from or defenses to civil liability established by other sections of the Revised Code or available at common law to which the owner, operator, or user of a shooting range may be entitled.

(c) Division (A) of this section shall apply only to harm that occurs on or after the effective date of this section.

(d) Division (A) of this section does not confer an immunity from civil liability in relation to an owner's, operator's, or user's actions or omissions that constitute negligence, willful or wanton misconduct, or intentionally tortious conduct if those actions or omissions are not the subject of the chief's noise rules or are not in substantial compliance with the chief's noise rules.

(B) The owner, operator, or user of a shooting range is not subject to criminal prosecution under any section of the Revised Code, or under any ordinance, resolution, or regulation of a political subdivision, that relates to the creation, limitation, or suppression of noise if the conduct of the owner, operator, or user that allegedly violates the section, ordinance, resolution, or regulation substantially complies with the chief's noise rules.

(C) Notwithstanding any contrary provision of law, the courts of common pleas, municipal courts, housing divisions of municipal courts, and county courts of this state shall not grant injunctive relief under Chapter 3767 or any other section of the Revised Code, under an ordinance, resolution, or regulation of a political subdivision, or under the common law of this state against the owner or operator of a shooting range in a nuisance action if the court determines that the owner's or operator's actions or omissions that are the subject of a complaint substantially complied with the chief's noise rules or the chief's public safety rules, whichever apply to the nuisance action.

OKLAHOMA – OKLA. STAT. ANN. TIT. 63 § 709.2 ET SEQ.

**§63-709.2. Noise - exemption from liability.**

A. Notwithstanding any municipal ordinance or rule regulating noise to the contrary, a governmental official may not seek a civil or criminal penalty or injunction against a shooting range, or its owner or operators, on the basis of noise emanating from the range, provided the noise at the property line of the shooting range does not exceed one hundred fifty (150) decibels.

B. No person shall bring any suit in law or equity or any other claim for relief against a shooting range, or its owners or operators, based upon noise emanating from the shooting range, provided the noise at the property line of the range does not exceed one hundred fifty (150) decibels.

C. Notwithstanding any law to the contrary, any ordinance or rule relating to noise adopted by any local unit of government, whether before, on, or after the effective date of this act, shall not be deemed to be enforceable against a shooting range, provided the noise at the property line of the range does not exceed one hundred fifty (150) decibels. The ordinance or rule shall not serve as the basis for any suit in law or equity, whether brought by a governmental official or person. In no event shall the provisions of this subsection affect the outcome of any suit brought prior to the effective date of this act in which a final order of judgment or relief has been entered.

OREGON – OR. REV. STAT. ANN. § 467.131

**467.131. Exemption from civil or criminal liability based on noise or noise pollution from shooting range.**

Any owner, operator or lessee of a rifle, pistol, silhouette, skeet, trap, blackpowder or other shooting range in this state shall be immune from civil or criminal liability based upon an allegation of noise or noise pollution so long as:

- (1) The allegation results from the normal and accepted activity on the shooting range;
- (2) The owner, operator or lessee complied with any applicable noise control law or ordinance existing at the time construction of the shooting range began or no noise control law or ordinance was then existing; and
- (3) The allegation results from activity on the shooting range occurring between 7 a.m. and 10 p.m. or conducted for law enforcement training purposes. [1996 c.8 §6 (enacted in lieu of 467.130)]

*Note: 467.131 to 467.138 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 467 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.*

**467.132. Exemption from action for nuisance on basis of noise caused by shooting range.**

The owner, operator or lessee of a rifle, pistol, silhouette, skeet, trap, blackpowder or other shooting range in this state shall not be subject to any action for nuisance and no court in this state shall enjoin the use or operation of such shooting range on the basis of noise or noise pollution so long as:

- (1) The allegation results from the normal and accepted activity on the shooting range;
- (2) The owner, operator or lessee complied with any applicable noise control law or ordinance existing at the time construction of the shooting range began or no noise control law or ordinance was then existing; and
- (3) The allegation results from activity occurring between 7 a.m. and 10 p.m. or conducted for law enforcement training purposes. [1996 c.8 §8 (enacted in lieu of 467.132)]

*Note: See note under 467.131.*

**467.136. Preemption of certain local regulation of shooting range.**

Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a shooting range a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to a shooting range for which no action or claim is allowed under ORS 467.131 and 467.133. [1996 c.8 §10 (enacted in lieu of 467.135)]

*Note: See note under 467.131.*

PENNSYLVANIA – 35 PA. STAT. ANN. § 4501

**§ 4501. General immunity for noise.**

All owners of rifle, pistol, silhouette, skeet, trap, blackpowder or other ranges in this Commonwealth shall be exempt and immune from any civil action or criminal prosecution in any matter relating to noise or noise pollution resulting from the normal and accepted shooting activity on ranges, provided that the owners of the ranges are in compliance with any applicable noise control laws or ordinances extant at the time construction of the range was initiated. If there were no noise control laws or ordinances extant at the time construction of the range was initiated, then the immunity granted by this act shall apply to said ranges.

**§ 4502. Nuisances and injunction.**

The owners of the ranges shall not be subject to any action for nuisance, and no court in this Commonwealth shall enjoin the use or operation of the ranges on the basis of noise or noise pollution, provided that the owners of the ranges are in compliance with any applicable noise control laws or ordinances extant at the time construction of the range was initiated. If there were no noise control laws or ordinances extant at the time construction of the range was initiated, then the immunity granted by this act shall apply to said ranges.

RHODE ISLAND – R.I. GEN. LAWS § 11-47-62

**§ 11-47-62 Rifle ranges – immunity from prosecution – criminal or civil.**

(a) Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, it shall be lawful for an owner of a rifle, pistol, silhouette, archery, skeet, trap, black powder, or other similar range to operate the range in excess of the applicable noise or noise pollution, law, ordinance or bylaw, provided the owner of the range continues to be in compliance with any applicable noise control law, ordinance or bylaws in existence at the time of the construction of the range. No owner shall be liable in any action for nuisance, and no court shall enjoin the use or operation of the range on the basis of noise or noise pollution, provided the owner continues to be in compliance with any noise control law, ordinance or bylaws in effect at the time of the construction of the range.

(b) No standards in rules adopted by any state, city or town agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall apply to the ranges exempted from liability under the provisions of this section.

(c) Nothing in this section shall be construed to authorize or permit an owner of a rifle, pistol, silhouette, archery, skeet, trap, black powder, or other similar range to change the use and/or type of the range, or to expand the use and/or type of the range.

SOUTH CAROLINA – S.C. CODE ANN. § 31-18-10 ET SEQ.

**SECTION 31-18-10. Chapter title.**

This chapter may be cited as the "South Carolina Shooting Range Protection Act of 2000".

**SECTION 31-18-20. Definitions.**

As used in this chapter:

(1) "shooting range" or "range" means an area that is:

(a) designated, utilized, and operated by a person for the firing of firearms; where

(b) the firing of firearms is the usual, regular, and primary activity occurring in the area; and where

(c) the improvements, size, geography, and vegetation of the area are such that a projectile discharged from a firearm at a target would not reasonably be expected to escape its boundaries by virtue of the trajectory of the projectile, or by virtue of a backstop, berm, bullet trap, impact barrier, or similar device designed to prevent the escape of such projectiles.

(2) "person" means an individual, partnership, limited liability company, corporation, club, association, governmental entity, or other legal entity.

(3) "substantial change in use" or "substantial change in the use" means that the current primary use of the range no longer represents the activity previously engaged in at the range.

**SECTION 31-18-30. Nuisance action.**

(A) Except as provided in this subsection, a person may not maintain a nuisance action for noise against a shooting range, or the owners, operators, or users of the range, located in the vicinity of that person's property if the shooting range was established as of the date the person acquired the property. If there is a substantial change in the use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within three years from the beginning of the substantial change.

## SOUTH CAROLINA (CONT'D.)

(B) A person who owns property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range, or the owners, operators, or users of the range, only if the action is brought within five years after establishment of the range or three years after a substantial change in use of the range.

(C) If there has been no shooting activity at a range for a period of three years, resumption of shooting is considered establishment of a new shooting range for purposes of this section. The three-year period shall be tolled if shooting activity ceases due to legal action against the shooting range or the owners, operators, or users of the shooting range.

### **SECTION 31-18-40. Application of noise control ordinance.**

(A) A county, municipal, or state noise control ordinance, rule, or regulation may not require or be applied to require a shooting range to limit or eliminate shooting activities that have occurred on a regular basis before January 1, 2000.

(B) A county, municipal, or state noise control ordinance, rule, or regulation may not be applied to a shooting range that was in compliance with a noise control ordinance as of the date of its establishment, provided there is no substantial change in the use of the range subsequent to its initial compliance.

(C) A county, municipal, or state noise control ordinance, rule, or regulation may not be applied to a shooting range that was in existence prior to the enactment of a noise control ordinance, rule, or regulation, provided there is no substantial change in the use of the range.

### **SECTION 31-18-50. Local regulation of location and construction of new shooting range.**

Except as otherwise provided in this chapter or the law of this State, this chapter does not prohibit a local government from regulating the location and construction of a new shooting range after the effective date of this chapter.

### **SECTION 31-18-60. Notification of proximity of shooting range.**

Each county in this State in which there is an existing shooting range or in which a shooting range is established must prominently display a sign at a one-mile radius of each shooting range on all primary highways to notify the public that they are entering the area of a shooting range which shall bear the following inscription: "SHOOTING RANGE--NOISE AREA"

## SOUTH CAROLINA (CONT'D.)

The sign must conform to the Manual of Uniform Traffic Control Devices and the policies of the Department of Transportation. The cost of fabricating the sign must be paid by the shooting range. Any shooting range in existence prior to January 1, 2000, must have a sign installed by January 1, 2001.

SOUTH DAKOTA – S.D. CODIFIED LAWS § 21-10-28 ET SEQ.

**21-10-28.**

Normal operation and use of sport shooting range not a nuisance. The use or operation of a sport shooting range may not be enjoined as a nuisance if the range is in compliance with those statutes, regulations, and ordinances that applied to the range and its operation at the time when the initial operation of the range commenced. The use or operation of a sport shooting range may not be enjoined as a nuisance due to any subsequent change in any statute, regulation, or ordinance pertaining to the normal operation and use of sport shooting ranges.

**21-10-29.**

Injunction not available to certain adversely affected property owners. The use or operation of a sport shooting range may not be enjoined as a nuisance by a person who acquires title to real property adversely affected by the normal operation and use of a sport shooting range which commenced operation prior to the time the person acquired title.

**21-10-30.**

Recovery based on negligence or willful or wanton misconduct not precluded. The provisions of §§ 21-10-28 to 21-10-34, inclusive, do not apply to any recovery for any act or omission relating to the operation or use of any sport shooting range based on negligence or willful or wanton misconduct.

**21-10-31.**

Provisions inapplicable where substantial change in primary use has occurred. The provisions of §§ 21-10-28 to 21-10-34, inclusive, do not apply if there has been a substantial change in the primary use of a sport shooting range.

TENNESSEE – TENN. CODE ANN. § 39-17-316 ET SEQ.

**39-17-316. Noise control at sport shooting ranges.**

- (a) As used in this section, unless the context otherwise requires:
- (1) "Local unit of government" means a county, municipality, metropolitan government, or other entity of local government;
  - (2) "Person" means an individual, proprietorship, partnership, corporation, club, or other legal entity; and
  - (3) "Sport shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.
- (b) (1) Notwithstanding any other provision of law to the contrary, a person who operates or uses a sport shooting range in this state is not subject to civil liability or criminal prosecution for noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws, resolutions, ordinances or regulations, issued by a local unit of government, that applied to the range and its operation at the time the range was constructed and began operation.
- (2) A person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of the state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws, resolutions, ordinances or regulations, issued by a unit of local government, that applied to the range and its operation at the time the range was constructed and began operation.
- (3) A person who subsequently acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin or impede the use of the range where there has not been a substantial change in the nature of the use of the range or by a person using the range.
- (4) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibels which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this section.
- (5) Notwithstanding any other provision of law to the contrary, nothing in this section shall be construed to limit civil liability except in the limited case of noise pollution.

## TEXAS – TEX. HEALTH & SAFETY CODE ANN. § 756.041

### **§ 756.041. Definition.**

In this subchapter, "outdoor shooting range" means an outdoor shooting range, outdoor firing range, or other open property on which persons may fire a weapon for a fee or other remuneration but does not include a deer lease or other similar leases of property for the purpose of hunting or an archery range.

### **§ 756.0411. Applicability.**

This subchapter applies only to an outdoor shooting range located in a county with a population of more than 150,000.

### **§ 756.042. Construction standards.**

The owner of an outdoor shooting range shall construct and maintain the range according to standards that are at least as stringent as the standards printed in the National Rifle Association range manual.

### **§ 756.043. Civil penalty.**

(a) The owner of an outdoor shooting range who fails to comply with Section 756.042 is liable within 60 days after a finding of noncompliance for a civil penalty of \$50 for each day of noncompliance; the aggregate amount not to exceed \$500.

(b) The attorney general or the appropriate district attorney, criminal district attorney, or county attorney shall recover the civil penalty in a suit on behalf of the state. If the attorney general brings the suit, the penalty shall be deposited in the state treasury to the credit of the general revenue fund. If another attorney brings the suit, the penalty shall be deposited in the general fund of the county in which the violation occurred.

### **§ 756.044. Criminal penalties.**

(a) The owner of an outdoor shooting range commits an offense if the owner intentionally or recklessly fails to comply with Section 756.042 and that failure results in injury to another person.

(b) An offense under this section is a Class C misdemeanor, except that if it is shown on the trial of the defendant that the defendant has previously been convicted of an offense under this section, the offense is a Class A misdemeanor.

### **§ 756.045. Insurance required.**

(a) The owner of an outdoor shooting range shall purchase and maintain an insurance policy that provides coverage of at least \$500,000 for bodily injuries or death and another policy that provides that level of coverage for property damage resulting from firing any weapon while on the shooting range.

(b) The owner of an outdoor shooting range shall prominently display a sign at the shooting range stating that the owner has purchased insurance to cover bodily injury, death, or property damage occurring from activities at the shooting range.

## UTAH – UTAH CODE ANN. § 47-3-1 ET SEQ.

### **47-3-1. Definition.**

As used in this chapter, "shooting range" or "range" means an area designed and continuously operated under nationally recognized standards and operating practices for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting activities.

### **47-3-2. Assumption of risk**

Each person who participates in shooting at a shooting range accepts the associated risks to the extent the risks are obvious and inherent. Those risks include injuries that may result from noise, discharge of projectile or shot, malfunction of shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

### **47-3-3. When nuisance action permitted.**

(1) Each state agency or political subdivision shall ensure that any of its rules or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition any shooting range that was established, constructed, or operated prior to the implementation of the rule or ordinance regarding public nuisance unless that activity or operation substantially and adversely affects public health or safety.

(2) A person who operates or uses a shooting range in this state is not subject to civil liability or criminal prosecution for noise or noise pollution resulting from the operation or use of the range if:

(a) the range:

(i) was established, constructed, or operated prior to the implementation of any noise ordinances, rules, or regulations; and

(ii) does not substantially and adversely affect public health or safety; or

(b) the range:

(i) is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the range and its operation at the time of establishment, construction, or initial operation of the range; and

(ii) does not substantially and adversely affect public health or safety.

(3) For the purposes of this section, noise generated by a shooting range that is operated in accordance with nationally recognized standards and operating practices is not a public health nuisance.

(4) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of any shooting range that was established, constructed, or operated prior to the development of the subdivision, the owner of the development shall provide on any plat filed with the county recorder the following notice: "Shooting Range Area

This property is located in the vicinity of an established shooting range. It can be anticipated that customary uses and activities at this shooting range will be conducted now and in the future. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from these uses and activities."

VERMONT – VT. STAT. ANN. TIT. 10 § 5227

**§ 5227. Sport shooting ranges; municipal and state authority.**

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

(b) The owner or operator of a sport shooting range, and a person lawfully using the range, who is in substantial compliance with any noise use condition of any issued municipal or state land use permit otherwise required by law shall not be subject to any civil liability for damages or any injunctive relief resulting from noise or noise pollution, notwithstanding any provision of law to the contrary.

(c) If no municipal or state land use permit is otherwise required by law, then the owner or operator of the range and any person lawfully using the range shall not be subject to any civil liability for damages or any injunctive relief relating to noise or noise pollution.

(d) Nothing in this section shall prohibit or limit the authority of a municipality or the state to enforce any condition of a lawfully issued and otherwise required permit. (Added 1991, No. 20; amended 2001, No. 61, § 71, eff. June 16, 2001.)

VIRGINIA – VA. CODE ANN. § 15.2-917

**§ 15.2-917. Applicability of local noise ordinances to certain sport shooting ranges.**

No local ordinance regulating noise shall subject a sport shooting range to noise control standards more stringent than those in effect at the time the construction or operation of the range initially was approved. The operation or use of a sport shooting range shall not be enjoined on the basis of noise, nor shall any person be subject to action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of the range, if the range is in compliance with all ordinances relating to noise in effect at the time construction or operation of the range was approved.

For purposes of this section, "sport shooting range" means an area or structure designed for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting.

WEST VIRGINIA – W. VA. CODE ANN. § 61-6-23

**§61-6-23. Shooting range; limitations on nuisance actions.**

(a) As used in this section:

(1) "Person" means an individual, proprietorship, partnership, corporation, club or other legal entity;

(2) "Shooting range" or "range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar shooting.

(b) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person's property if the range was established as of the date of the person acquiring the property. If there is a substantial change in use of the range after the person acquires the property, the person may maintain a nuisance action if the action is brought within two years from the beginning of the substantial change in use of the range.

(c) A person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that range only if the action is brought within four years after establishment of the range or two years after a substantial change in use of the range.

(d) If there has been no shooting activity at a range for a period of two years, resumption of shooting is considered establishment of a new range for the purposes of this section.

WISCONSIN – WIS. STAT. ANN. § 182.021

**182.021 Gun clubs.**

Any domestic corporation formed for the purpose of sharpshooting or, improving in the use of firearms may acquire suitable grounds therefor, and may establish, use and maintain a rifle range for its exercises. After such grounds and range are permanently located and improved by the erection of buildings, breastworks, ramparts or otherwise, no public street shall be opened through the tract so used or occupied, unless the necessity therefore shall be first established by verdict of a jury; nor shall any suit be maintained against such corporation to restrain, enjoin or impede its exercises at the place so selected on complaint of any private individuals or parties, who shall acquire title to any property adversely affected by such exercises after such grounds and range are permanently located and improved as aforesaid.

## WYOMING – WYO. STAT. ANN. § 16-11-101

### **16-11-101. Definitions.**

(a) As used in this act:

(i) "Local government" means a county, city or town;

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

### **16-11-102. Operation of shooting ranges; liability.**

(a) Notwithstanding any other provision of law, any person who operates or uses a sport shooting range in this state shall not be 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 that applied to the range and its operation at the time construction or operation of the range was approved by a local government.

(b) Any person who operates or uses a sport shooting range is not subject to an action for nuisance, and a court of this state shall not enjoin the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances that applied to the range and its operation at the time construction or operation of the range was approved by a local government.

(c) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere shall not apply to a sport shooting range exempted from liability under this act.

### **16-11-103. Regulation of location and construction.**

This act does not prohibit a local government from regulating the location and construction of a sport shooting range after the effective date of this act.