

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S2/15/17
A Bill

SENATE BILL 270

By: Senator S. Flowers

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

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

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



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

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

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

(4) Reasonably expanding or increasing facilities or activities.

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

(d) As used in this section:

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

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

(3) "Sport shooting 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; and

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

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

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

SECTION 2. Arkansas Code § 16-105-502 is amended to read as follows:
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 sport shooting range if the sport shooting range is in compliance with noise control ordinances of local units of government that applied to the sport shooting range and its operation at the time the sport shooting 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 sport shooting range on the basis of noise or noise pollution, if the sport shooting range is in compliance with noise control ordinances of units of local government that applied to the sport shooting range and its operation at the time the sport shooting range was constructed and began operation.

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

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

(3) This subsection does not apply to sport shooting ranges approved by the Arkansas State Game and Fish Commission.

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

~~(e)~~(e) 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 sport shooting range to restrain, enjoin, or impede the use of the sport shooting range unless there has been a substantial change in the nature of the use of the sport shooting range or by a person using the sport

shooting range.

~~(d)~~(f) 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)~~(g) 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.

SECTION 3. DO NOT CODIFY. Retroactivity.

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

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

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

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

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

/s/S. Flowers