



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0259

Introduced 2/4/2009, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

New Act
415 ILCS 5/7.6 new

Creates the Sport Shooting and Training Range Act. Contains legislative findings and intent. Provides that the Illinois Environmental Protection Agency shall make a good faith effort to provide U. S. Environmental Protection Agency publications to owners or operators of sport shooting or training ranges and provide environmental practices assistance. Provides for environmental stewardship plans at ranges and for Illinois EPA assistance with contamination. Sets forth procedures regarding contamination investigations and corrective actions. Provides for immunity from legal actions brought by the State, local governments, persons, or non-governmental entities based upon projectiles on the range or in the environment, if an operator made a good faith effort to comply with the Environmental Protection Act. Provides for withdrawal of claims by the State and local governments against ranges pending in a State court or administrative agency. Provides for criminal penalties when a State or local governmental employee while officially acting maliciously violates the Act. Provides that no municipality or county shall zone or rezone any property that includes a range if the zoning or rezoning would cause the range to be eliminated or to cease operation, unless the owner petitions for or consents to the zoning or rezoning. Contains provisions regarding: costs; preemption; conflicting laws; construction; and other matters. Amends the Environmental Protection Act to conform to the new Act.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning sport shooting and training ranges.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Sport
5 Shooting and Training Range Act.

6 Section 5. Findings; intent.

7 (a) The General Assembly finds that:

8 (1) Sport shooting and training ranges are widely used
9 and enjoyed by the residents of this State and are a
10 necessary component of the guarantees of the Second
11 Amendment to the United States Constitution and of Section
12 22 of Article I of the Illinois Constitution.

13 (2) Projectiles are integral to sport shooting and
14 training range activity and to the ownership and use of
15 firearms.

16 (3) Over years of operation, projectiles have
17 accumulated in the environment at many ranges. Whether this
18 projectile accumulation has caused or will cause
19 degradation of the environment or harm to human health
20 depends on factors that are site-specific. Therefore,
21 sport shooting and training ranges must be allowed
22 flexibility to apply appropriate environmental management
23 practices at ranges. The use of environmental management

1 practices can be implemented to avoid or reduce any
2 potential for adverse environmental impact or harm to human
3 health.

4 (4) Appropriate environmental management practices,
5 when implemented where applicable, can minimize or
6 eliminate environmental impacts associated with
7 projectiles. Environmental management practices to
8 maintain or to improve the condition of ranges is evolving
9 and will continue to evolve.

10 (5) Unnecessary litigation and unnecessary regulation
11 by governmental agencies of sport shooting and training
12 ranges impair the ability of residents of this State to
13 ensure safe handling of firearms and to enjoy the
14 recreational opportunities ranges provide. The cost of
15 defending these actions is prohibitive and threatens to
16 bankrupt and destroy the sport shooting and training range
17 industry.

18 (6) The elimination of sport shooting ranges will
19 unnecessarily impair the ability of residents of this State
20 to exercise and practice their constitutional guarantees
21 under the Second Amendment to the United States
22 Constitution and under Section 22 of Article I of the
23 Illinois Constitution.

24 (b) The General Assembly intends to protect public and
25 private sport shooting or training range owners, operators,
26 users, employees, agents, contractors, customers, lenders,

1 insurers, and concessionaires from lawsuits and other legal
2 actions by the State or political subdivisions and to promote
3 maximum flexibility for effective implementation of
4 environmental management practices. It is also the intent of
5 the General Assembly that legal action against sport shooting
6 and training ranges will only be a last-resort option and be
7 available only to the Agency and only after all reasonable
8 efforts to resolve disputes at shooting ranges, including
9 compliance assistance, negotiations, and alternative dispute
10 resolution, have been exhausted.

11 Section 10. Definitions. As used in this Act:

12 "Agency" means the Illinois Environmental Protection
13 Agency.

14 "Environment" means the air, water, surface water,
15 sediment, soil, and groundwater and other natural and manmade
16 resources of this State.

17 "Environmental management practices" includes but is not
18 limited to the 2001 edition, as revised in 2005, of Best
19 Management Practices for Lead at Outdoor Shooting Ranges,
20 EPA-902-B-01-001, published by the United States Environmental
21 Protection Agency. Such practices include, but are not limited
22 to, control and containment of projectiles, prevention of the
23 migration of projectiles and their constituents to ground and
24 surface water, periodic removal and recycling of projectiles,
25 and documentation of actions taken.

1 "Operator" means any person who operates or has operated a
2 sport shooting or training range.

3 "Owner" means any person who owns or has owned a sport
4 shooting or training range or any interest therein.

5 "Projectile" means any object expelled, propelled,
6 discharged, shot, or otherwise released from a firearm, BB gun,
7 airgun, or similar device or a target releasing device,
8 including, but not limited to, gunpowder, ammunition, lead,
9 shot, sporting clays, skeet, and trap targets and associated
10 chemicals, derivatives, and constituents thereof.

11 "Sport shooting and training range" or "range" means any
12 area that has been designed, or operated for the use of,
13 firearms, rifles, shotguns, pistols, silhouettes, sporting
14 clays, skeet, trap, black powder, BB guns, airguns, or similar
15 devices, or any other type of sport or training shooting;
16 however, the term does not include any building that is used as
17 an indoor shooting or firing range and is completely enclosed
18 by walls, a floor, and a roof.

19 "User" means any person, partner, joint venture, business
20 or social entity, or corporation, or any group of the
21 foregoing, organized or united for a business, sport, or social
22 purpose.

23 Section 15. Duties.

24 (a) No later than January 1, 2010, the Agency shall make a
25 good faith effort to provide copies of the 2001 edition, as

1 revised in 2005, of Best Management Practices for Lead at
2 Outdoor Shooting Ranges, EPA-902-B-01-001, published by the
3 United States Environmental Protection Agency to all owners or
4 operators of sport shooting or training ranges. The Agency
5 shall also provide technical assistance with implementing
6 environmental management practices, which may include
7 workshops, demonstrations, or other guidance, if any owner or
8 operator of a sport shooting or training range requests such
9 assistance.

10 (b) No later than January 1, 2011, sport shooting or
11 training range owners, operators, tenants, and occupants shall
12 initiate environmental stewardship plans with implementation
13 of situation-appropriate environmental management practices.

14 (c) If contamination is suspected or identified by any
15 owner, operator, tenant, or occupant of a sport shooting or
16 training range, the owner, operator, tenant, or occupant of the
17 sport shooting or training range may request that the Agency
18 assist with or perform contamination assessment, including,
19 but not limited to, assistance preparing and presenting a plan
20 to confirm the presence and extent of contamination.

21 (d) If contamination is suspected or identified by a
22 third-party complaint or by adjacent property sampling events,
23 the Agency shall give 60 days' notice to the sport shooting or
24 training range owner, operator, tenant, or occupant of the
25 Agency's intent to enter the site for the purpose of
26 investigating potential sources of contamination. The Agency

1 may assist with or perform contamination assessment,
2 including, but not limited to, assistance preparing and
3 presenting a plan to confirm the presence and extent of
4 contamination. The cost of an assessment shall be borne by the
5 complaining party.

6 (e) If the Agency confirms contamination under subsection
7 (c) or (d), principles of risk-based corrective action pursuant
8 to Title XVII of the Environmental Protection Act and rules
9 adopted under that Title shall be applied to the affected sport
10 shooting or training ranges. Application of the minimum
11 risk-based corrective action principles shall be the primary
12 responsibility of the sport shooting range or training range
13 owner or operator for implementation; however, the Agency may
14 assist in these efforts. Risk-based corrective action plans
15 used for these cleanups shall be based upon the presumption
16 that the sport shooting or training range is an industrial,
17 agricultural, conforming or non-conforming special use and not
18 a residential use and will continue to be operated as a sport
19 shooting or training range.

20 Section 20. Sport shooting and training range protection.

21 (a) Notwithstanding any other provision of law, any public
22 or private owner, operator, employee, agent, contractor,
23 customer, lender, insurer, or user of any sport shooting or
24 training range located in this State shall have immunity from
25 lawsuits and other legal actions brought by the State or any of

1 its agencies, non-governmental entity, or units, of local
2 government for any claim of any kind associated with the use,
3 release, placement, deposition, or accumulation of any
4 projectile in the environment, on or under that sport shooting
5 or training range, or any other property over which the range
6 has an easement, leasehold, or other legal right of use, if the
7 sport shooting or training range owner or operator has made a
8 good faith effort to comply with Section 15.

9 (b) Notwithstanding any other provision, any public or
10 private owner, operator, employee, agent, contractor, lender,
11 or insurer of any sport shooting or training range located in
12 this State shall have immunity from legal or administrative
13 actions brought by a person or non-governmental entity for any
14 claim of any kind associated with the use, release, placement,
15 deposition, or accumulation of any projectile in the
16 environment, on or under that sport shooting or training range,
17 or any other property over which the range has an easement,
18 leasehold, or other legal right of use, if the sport shooting
19 or training range owner or operator has made a good faith
20 effort to comply with Section 15.

21 (c) The sport shooting and training range protections
22 provided by this Act are supplemental to any other protections
23 provided by law.

24 Section 25. Withdrawal of claims and recovery of expenses
25 and attorney's fees.

1 (a) Within 90 days after the effective date of this Act,
2 all claims by the State and any of its agencies and units of
3 local government against sport shooting or training ranges
4 pending in any court of this State or before any administrative
5 agency shall be withdrawn. The termination of such cases shall
6 have no effect on the defendant's cause of action for damages,
7 reasonable attorney's fees, and costs.

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

12 Section 30. Penalties. Any official, agent, or employee of
13 a unit of local government or State agency, while he or she was
14 acting in his or her official capacity and within the scope of
15 his or her employment or office, who intentionally and
16 maliciously violates the provisions of this Act or is party to
17 bringing an action in violation of this Act commits a Class A
18 misdemeanor.

19 Section 35. Zoning. Notwithstanding any provision of the
20 Illinois Municipal Code or the Counties Code, after the
21 effective date of this Amendatory Act of the 96th General
22 Assembly, no action shall be taken by a municipality or county
23 to zone or rezone any real property on which there is then
24 located a sport shooting and training range if the zoning or

1 rezoning would cause the elimination of or the cessation of the
2 operation of that sport shooting and training range, unless the
3 owner of the real property on which the sport shooting and
4 training range is located petitions for or consents to the
5 zoning or rezoning.

6 Section 40. Preemption. Except as expressly provided by
7 law, the General Assembly hereby declares that it is occupying
8 the whole field of regulation of firearms and ammunition use at
9 sport shooting and training ranges, including the
10 environmental effects of projectile deposition at sport
11 shooting and training ranges.

12 Section 45. Other laws. The provisions of this Act
13 supersede any conflicting provisions of the Environmental
14 Protection Act.

15 Section 50. Construction. This Act shall be liberally
16 construed to effectuate its remedial and deterrent purposes.

17 Section 80. The Environmental Protection Act is amended by
18 adding Section 7.6 as follows:

19 (415 ILCS 5/7.6 new)

20 Sec. 7.6. Sport Shooting and Training Range Act. The
21 provisions of the Sport Shooting and Training Range Act

1 supersede any conflicting provisions of this Act.