

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4174

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PHILLIPS,R

[Introduced January 20, 2016;

Referred to the Committee on Agriculture and Natural
Resources then the Judiciary.]

1 A BILL to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §61-6-23 of said code, all relating to indoor shooting ranges;
 3 exempting activity at indoor shooting ranges from the prohibition of shooting or discharging
 4 a firearm within five hundred feet of any church or dwelling house; amending the definition
 5 of "shooting range" to include an indoor range; exempting activity at indoor shooting
 6 ranges from criminal penalties for violations for shooting or discharging a firearm within
 7 five hundred feet of any church or dwelling house; and limiting nuisance actions against
 8 shooting ranges.

Be it enacted by the Legislature of West Virginia:

1 That §20-2-58 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that §61-6-23 of said code be amended and reenacted, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-58. Shooting across road or near building or crowd; penalty.

1 (a) In addition to any other prohibitions which may exist by law, it shall be unlawful for any
 2 person to shoot or discharge any firearms:

3 (1) Across or in any public road in this state, at any time;

4 (2) Within five hundred feet of any school or church; or

5 (3) Within five hundred feet of any dwelling house: *Provided*, That a person who is a
 6 resident of a dwelling house, and his or her authorized guest, may shoot or discharge a firearm
 7 in a lawful manner within five hundred feet of the dwelling house where the person lives, if the
 8 firearm is being discharged with the express or implied knowledge and consent of all residents of
 9 that dwelling house, and no other dwelling houses are located within five hundred feet of where
 10 the firearm is discharged; or

11 (4) On or near any park or other place where persons gather for purposes of pleasure.

12 (b) Any person violating this section is guilty of a misdemeanor and, upon conviction
13 thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail for not more than
14 one hundred days, or both fined and confined.

15 ~~(b)~~ (c) Notwithstanding the provisions of subsection (a) of this section, any person
16 operating a gun repair shop, licensed to do business in the State of West Virginia and duly
17 licensed under applicable federal statutes, may be exempted from the prohibition established by
18 this section and section twelve, article seven, chapter sixty-one of this code for the purpose of
19 test firing a firearm. The director of the Division of Natural Resources shall prescribe such rules
20 as may be necessary to carry out the purposes of the exemption under this section and section
21 twelve, article seven, chapter sixty-one and shall ensure that any person residing in any dwelling
22 home within five hundred feet of such gun repair shop be given an opportunity to protest the
23 granting of such exemption.

24 (d) Nothing contained within this section shall be interpreted so as to prohibit or limit the
25 establishment, operation, or use of an indoor shooting range, or to require public notice and
26 comment for the establishment, operation, or use of an indoor shooting range within five hundred
27 feet of any church, dwelling house, park, or other place where persons gather for purposes of
28 pleasure: *Provided*, That the owner or operator of such shooting range maintains a Type 01, Type
29 02, Type 06, Type 07, Type 08, Type 09, Type 10, or Type 11 Federal Firearms License and such
30 indoor shooting range is designed with reasonable care to prevent the escape of a projectile from
31 the range property.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 6. CRIMES AGAINST THE PEACE.

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

1 (a) As used in this section:

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

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

7 (b) Except as provided in this section, a person may not maintain a nuisance action for
8 noise against a shooting range located in the vicinity of that person's property if the range was
9 established as of the date of the person acquiring the property. If there is a ~~substantial change in~~
10 ~~use of the range~~ period of shooting inactivity at a range exceeding one year after the person
11 acquires the property, the person may maintain a nuisance action if the action is brought within
12 ~~two years~~ one year from the beginning of shooting activity resuming at ~~the substantial change in~~
13 ~~use of the range~~.

14 (c) A person who owned property in the vicinity of a an outdoor shooting range that was
15 established after the person acquired the property may maintain a nuisance action for noise
16 against that range only if the action is brought within ~~four years~~ one year after establishment of
17 the range or one year from the beginning of shooting activity resuming at an outdoor shooting
18 range that has been inactive for more than one year ~~two years after a substantial change in use~~
19 ~~of the range~~.

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

NOTE: The purpose of this bill is to exempt activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of "shooting range" to include an indoor range; to exempt activity at indoor shooting ranges from criminal penalties for shooting or discharging a firearm within five hundred feet of any church or dwelling house; and limiting nuisance actions against shooting ranges.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.