

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 575

BY SENATOR TRUMP

[Introduced March 10, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-6-23 of the Code of West Virginia, 1931, as amended, relating
 2 to limitations on nuisance actions against shooting ranges for noises.

Be it enacted by the Legislature of West Virginia:

1 That §61-6-23 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.

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

1 (a) As used in this section:

2 (1) "Effective date" means the time the construction or operation of a sport shooting range
 3 initially was approved, or at the time any application was submitted for the construction or
 4 operation of a sport shooting range, whichever is earliest.

5 ~~(1)~~ (2) "Person" means an individual, proprietorship, partnership, corporation, club or other
 6 legal entity;

7 ~~(2)~~ (3) "Shooting range" or "range" means an area, whether indoor or outdoor, designed
 8 and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any
 9 other similar shooting.

10 ~~(b) Except as provided in this section, a person may not maintain a nuisance action for~~
 11 ~~noise against a shooting range located in the vicinity of that person's property if the range was~~
 12 ~~established as of the date of the person acquiring the property. If there is a substantial change in~~
 13 ~~use of the range or there is a period of shooting inactivity at a range exceeding one year after the~~
 14 ~~person acquires the property, the person may maintain a nuisance action if the action is brought~~
 15 ~~within two years from the beginning of the substantial change in use of the range, or the~~
 16 ~~resumption of shooting activity~~ No local ordinance regulating any noise may subject a shooting
 17 range to noise control standards more stringent than those standards in effect when the ordinance
 18 was first enacted. The operation or use of sport shooting range may not be enjoined based on
 19 noise, nor may any person be subject to action for nuisance or criminal prosecution in any matter

20 relating to noise resulting from the operation of the range, if the range is in compliance with all
21 ordinances relating to noise in effect at the time construction or operation of the range was
22 approved, or at the time any application was submitted for the construction or operation of the
23 range.

24 ~~(c) A person who owned property in the vicinity of a shooting range that was established~~
25 ~~after the person acquired the property may maintain a nuisance action for noise against that range~~
26 ~~only if the action is brought within two years after establishment of the range or two years after a~~
27 ~~substantial change in use of the range or from the time shooting activity is resumed~~ Any shooting
28 range operating or approved for construction within the state which has been condemned through
29 an eminent domain proceeding by any condemning entity, and which relocates to another site
30 within the same locality within two years of the final condemnation order, may not be subjected to
31 any noise control standard more stringent than those in effect at the effective date of the sport
32 shooting range.

33 ~~(d) Actions authorized by the provisions of this section are not applicable to indoor~~
34 ~~shooting ranges the owner or operator of which holds all necessary and required licenses and the~~
35 ~~shooting range is in compliance with all applicable state, county and municipal laws, rules or~~
36 ~~ordinances regulating the design and operation of such facilities~~ The changes made to this section
37 during the 2017 regular session of the Legislature shall be applied retroactively and any cases
38 pending before courts of this state against a shooting range that is in compliance with all
39 ordinances relating to noise in effect at the time of construction or operation of the range was
40 approved, or at the time any application was submitted for the construction or operation of the
41 range, whichever is earlier, shall be dismissed.

NOTE: The purpose of this bill is to limit nuisance actions against shooting ranges for noises. The bill prohibits ordinances regulating to shooting ranges that are more stringent than such ordinances in effect at the time a shooting range was constructed or planned.

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