

HB4174 CC #1 3-12

90 Days

Lovell 7908

Senator Ashley, from the committee of conference on matters of disagreement between the two houses, as to

Eng. House Bill 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill 4174 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting section, and agree to the same 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 In or near any state, county or municipal park in areas of which the discharge of~~
12 ~~firearms is prohibited or other place where persons gather for purposes of pleasure.~~

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

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

25 (d) The provisions of this section are not applicable to indoor shooting ranges the owner
26 or operator of which holds all necessary and required licenses and the shooting range is in
27 compliance with all applicable state, county, municipal laws, rules or ordinances regulating the
28 design and operation of such facilities.

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 or there is a period of shooting inactivity at a range exceeding one year after the
11 person acquires the property, the person may maintain a nuisance action if the action is brought
12 within two years from the beginning of the substantial change in use of the range, or the
13 resumption of shooting activity.

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

18 ~~(d) If there has been no shooting activity at a range for a period of two years, resumption~~
19 ~~of shooting is considered establishment of a new range for the purposes of this section. Actions~~
20 ~~authorized by the provisions of this section are not applicable to indoor shooting ranges the owner~~
21 ~~or operator of which holds all necessary and required licenses and the shooting range is in~~
22 ~~compliance with all applicable state, county and municipal laws, rules or ordinances regulating~~
23 ~~the design and operation of such facilities.~~

And,

That both houses recede from their respective positions as to the title of the bill and agree
to the same as follows:

Eng. Com. Sub. for House Bill 4174--A Bill to amend and reenact §20-2-58 of the Code
of West Virginia, 1931, as amended; and to amend and reenact §61-6-23 of said code, all relating

to shooting ranges generally; exempting 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 otherwise lawfully compliant; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; modifying and clarifying the limitations on nuisance actions against shooting ranges; and exempting indoor shooting ranges which have necessary licenses and are compliant with applicable laws, rules or ordinance from nuisance law.

Respectfully submitted,

Bob Ashley,
Chair.

Mike Azinger,
Chair.

Sue Cline,

Geoff Foster,

Bob Beach,
*Conferees on the part of the House
of Delegates.*

Clif Moore,
Conferees on the part of the Senate.