

PROTECT SHOOTING RANGES

Senate Bill 788 (Substitute H-2)
Senate Bill 789 (Substitute H-1)
First Analysis (6-8-94)

Sponsor: Sen. Philip E. Hoffman
Senate Committee: Natural Resources
and Environmental Affairs
House Committee: Conservation,
Environment, and Great Lakes

THE APPARENT PROBLEM:

Public Act 269 of 1989 was enacted to deal with problems arising from conflicts between shooting ranges and nearby property owners. The act gave ranges immunity from civil liability and criminal prosecution in matters relating to noise resulting from the range as long as the range was in compliance with local noise control laws at the time construction or operation of the range was approved. Despite the protections offered by the act, however, conflicts have continued, zoning boards have ruled against ranges, and circuit courts have ruled variously, sometimes ruling in favor of ranges, sometimes in favor of zoning boards. As yet there has been no appellate ruling with statewide application issued under the act. Amendments have been proposed to strengthen and clarify the protections of Public Act 269.

THE CONTENT OF THE BILLS:

Both bills would amend Public Act 269 of 1989, which offers shooting ranges protections from noise ordinances and nuisance suits, generally to expand protections provided by the act. Senate Bill 789 could not take effect unless Senate Bill 788 also was enacted.

Senate Bill 788 would amend Public Act 269 of 1989 (MCL 691.1541 et al.) to specify that a range that was not in violation of existing law when an ordinance took effect could continue to operate even if the operation did not conform to the new ordinance or an amendment to an existing ordinance. The bill also would allow a sport shooting range to remodel or replace existing buildings (within certain restrictions) and to expand its activities, despite being out of compliance with local ordinance, providing the range was in existence

when the bill took effect, the changes took place within the range's preexisting boundaries, and the range operated in compliance with generally accepted operation practices.

"Generally accepted operation practices" would be practices that were adopted by the Natural Resources Commission and established by a nationally recognized membership organization that provided voluntary firearm safety programs, and which were developed with consideration of all information reasonably available regarding the operation of shooting ranges. The commission would have to adopt generally accepted operation practices within 90 days after the bill took effect, and review them every five years, revising them as necessary.

The bill also would limit the application of existing protections against noise ordinances and nuisance suits (which apply to shooting range operations that conformed to applicable ordinances at the time of construction) to shooting ranges that complied with generally accepted operation practices.

Senate Bill 789 would add a new section (MCL 691.1544) specifying that each person participating in sport shooting at a range that conformed to accepted practices accepts the obvious and inherent risks associated with the sport. Those risks would include, but not be limited to, injuries resulting from noise, discharge of a projectile or shot, malfunction of sport shooting equipment not owned by the shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

HOUSE COMMITTEE ACTION:

The House committee substitute for Senate Bill 788 substantially revised the Senate-passed version, differing from it in details of definitions and scope. The House committee version of Senate Bill 789 differed from the Senate-passed version in addressing acceptance of risk by shooters, rather than immunity from civil liability for shooting ranges, and in its description of the risks involved.

FISCAL IMPLICATIONS:

With regard to earlier versions of the bills, the Senate Fiscal Agency said that the bills would have no fiscal impact on state or local government. (12-7-93 and 12-15-93)

ARGUMENTS:

For:

Shooting ranges and many private sportsmen's clubs that operate them provide important public services, as well as recreational opportunities. Shooting ranges are often the sites of gun and hunter safety courses and shooting instruction, and law enforcement training, as well as the site of individual practice sessions and organized competitions. Shooting ranges provide a place to receive hands-on instruction in the safe and proper use of dangerous weapons, to adjust rifle sights, and to practice to improve safety and accuracy in firing weapons. However, encroaching development and new neighbors in many areas have led to conflicts between shooting ranges and their neighbors, conflicts through which longstanding operations are threatened, and reasonable uses could be curtailed. Senate Bill 788 would clearly state that shooting ranges that conformed to safe practices could operate and expand within existing boundaries notwithstanding any conflicts with local noise ordinances. A companion bill, Senate Bill 789, would ensure that people who engage in recreational shooting at a safely-constructed shooting range also shouldered the risks inherent in the sport.

Against:

Senate Bill 788 would undermine principals of local planning and control over land use. Typically, a nonconforming use may not be expanded, and, once stopped, may not be resumed. By allowing expansions of activities at shooting ranges, the bill would be contrary to longstanding custom and

existing law, and further would attempt an unconstitutional amendment by reference of the applicable statutes on local zoning.

Against:

Problems with some ranges have arisen when longstanding property owners objected to newly expanded operations--including late night hours--at the ranges. One range is even reported to have allowed national guard mortar practice. Thus, to describe the problem of one where new suburbanites are trying to interfere with long-term pre-existing uses is to some degree inaccurate. Local homeowners have rights, too, and those rights include being able to enjoy their homes without excessive noise or risk of stray bullets.

Response:

The bills would offer protections only to shooting ranges that met proper safety standards; there should be no hazards to nearby residents.

POSITIONS:

The National Rifle Association supports the bills. (6-8-94)

A representative of the Michigan United Conservation Clubs testified in support of the bills. (6-7-94)

A representative of the Department of Natural Resources testified in support of the bills. (6-7-94)

The Michigan Municipal League opposes Senate Bill 788, and would oppose any amendment that would allow nonconforming use, once halted, to resume. (6-8-94)

The Michigan Townships Association opposes Senate Bill 788, and supports the House substitute for Senate Bill 789. (6-7-94)