

CHAPTER 91

GOVERNMENT - LOCAL

HOUSE BILL 98-1170

BY REPRESENTATIVES George, Arrington, G. Berry, Dean, Entz, McElhany, Musgrave, Paschall, Salaz, Smith, Spradley, Swenson, Taylor, and Young;
also SENATORS Chlouber, Arnold, Congrove, Powers, and Tebedo.

AN ACT

CONCERNING QUALIFYING SHOOTING RANGES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 12 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-12-109. Exception - sport shooting ranges - legislative declaration.

(1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT THE IMPOSITION OF INCONSISTENT, OUTDATED, AND UNNECESSARY NOISE RESTRICTIONS ON QUALIFYING SPORT SHOOTING RANGES THAT MEET SPECIFIC, DESIGNATED QUALIFICATIONS WORK TO THE DETRIMENT OF THE PUBLIC HEALTH, WELFARE, AND MORALE AS WELL AS TO THE DETRIMENT OF THE ECONOMIC WELL-BEING OF THE STATE. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT A NEED EXISTS FOR STATEWIDE UNIFORMITY WITH RESPECT TO EXEMPTING QUALIFYING SHOOTING RANGES FROM THE ENFORCEMENT OF LAWS, ORDINANCES, RULES, AND ORDERS REGULATING NOISE. AS THE GAIN ASSOCIATED WITH HAVING A UNIFORM STATEWIDE EXEMPTION FOR QUALIFYING SPORT SHOOTING RANGES OUTWEIGHS ANY GAINS ASSOCIATED WITH ENFORCING NOISE REGULATIONS AGAINST SUCH RANGES, THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE PROVISIONS OF THIS SECTION, AS ENACTED, ARE A MATTER OF STATEWIDE CONCERN AND PREEMPT ANY PROVISIONS OF ANY LAW, ORDINANCE, RULE, OR ORDER TO THE CONTRARY.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(a) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY, CITY AND COUNTY, TOWN, OR ANY GOVERNMENTAL ENTITY, BOARD, COUNCIL, OR COMMITTEE OPERATING UNDER THE AUTHORITY OF ANY COUNTY, CITY, CITY AND COUNTY, OR TOWN.

(b) "LOCAL GOVERNMENT OFFICIAL" MEANS ANY ELECTED, APPOINTED, OR EMPLOYED INDIVIDUAL OR GROUP OF INDIVIDUALS ACTING ON BEHALF OF OR EXERCISING THE AUTHORITY OF ANY LOCAL GOVERNMENT.

(c) "PERSON" MEANS AN INDIVIDUAL, PROPRIETORSHIP, PARTNERSHIP, CORPORATION, CLUB, OR OTHER LEGAL ENTITY.

(d) "QUALIFYING SPORT SHOOTING RANGE" OR "QUALIFYING RANGE" MEANS ANY PUBLIC OR PRIVATE ESTABLISHMENT, WHETHER OPERATING FOR PROFIT OR NOT FOR PROFIT, THAT OPERATES AN AREA FOR THE DISCHARGE OR OTHER USE OF FIREARMS OR OTHER EQUIPMENT FOR SILHOUETTE, SKEET, TRAP, BLACK POWDER, TARGET, SELF-DEFENSE, RECREATIONAL OR COMPETITIVE SHOOTING, OR PROFESSIONAL TRAINING.

(3) NOTWITHSTANDING ANY OTHER LAW OR MUNICIPAL OR COUNTY ORDINANCE, RULE, OR ORDER REGULATING NOISE TO THE CONTRARY:

(a) A LOCAL GOVERNMENTAL OFFICIAL MAY NOT COMMENCE A CIVIL ACTION NOR SEEK A CRIMINAL PENALTY AGAINST A QUALIFYING SPORT SHOOTING RANGE OR ITS OWNERS OR OPERATORS ON THE GROUNDS OF NOISE EMANATING FROM SUCH RANGE THAT RESULTS FROM THE NORMAL OPERATION OR USE OF THE QUALIFYING SHOOTING RANGE EXCEPT UPON A WRITTEN COMPLAINT FROM A RESIDENT OF THE JURISDICTION IN WHICH THE RANGE IS LOCATED. THE COMPLAINT SHALL STATE THE NAME AND ADDRESS OF THE COMPLAINANT, HOW LONG THE COMPLAINANT HAS RESIDED AT THE ADDRESS INDICATED, THE TIMES AND DATES ON WHICH THE ALLEGED EXCESSIVE NOISE OCCURRED, AND SUCH OTHER INFORMATION AS THE LOCAL GOVERNMENT MAY REQUIRE. THE LOCAL GOVERNMENT SHALL NOT PROCEED TO SEEK A CRIMINAL PENALTY OR PURSUE A CIVIL ACTION AGAINST A QUALIFYING SPORT SHOOTING RANGE ON THE BASIS OF SUCH A NOISE COMPLAINT IF THE COMPLAINANT ESTABLISHED RESIDENCE WITHIN THE JURISDICTION AFTER JANUARY 1, 1985.

(b) NO PERSON MAY BRING ANY SUIT IN LAW OR EQUITY OR ANY OTHER CLAIM FOR RELIEF AGAINST A QUALIFYING SPORT SHOOTING RANGE LOCATED IN THE VICINITY OF THE PERSON'S PROPERTY OR AGAINST THE OWNERS OR OPERATORS OF SUCH RANGE ON THE GROUNDS OF NOISE EMANATING FROM THE RANGE IF:

(I) THE QUALIFYING RANGE WAS ESTABLISHED BEFORE THE PERSON ACQUIRED THE PROPERTY;

(II) THE QUALIFYING RANGE COMPLIES WITH ALL LAWS, ORDINANCES, RULES, OR ORDERS REGULATING NOISE THAT APPLIED TO THE RANGE AND ITS OPERATION AT THE TIME OF ITS CONSTRUCTION OR INITIAL OPERATION;

(III) NO LAW, ORDINANCE, RULE, OR ORDER REGULATING NOISE APPLIED TO THE QUALIFYING RANGE AT THE TIME OF ITS CONSTRUCTION OR INITIAL OPERATION.

SECTION 2. Part 1 of article 21 of title 13, Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW SECTION to read:

13-21-111.8. Assumption of risk - shooting ranges. (1) ANY PERSON WHO ENGAGES IN SPORT SHOOTING ACTIVITIES AT A QUALIFYING SPORT SHOOTING RANGE, AS DEFINED UNDER SECTION 25-12-109 (2) (d), C.R.S., ASSUMES THE RISK OF INJURY OR DAMAGE ASSOCIATED WITH SPORT SHOOTING ACTIVITIES AS SET FORTH IN SECTION 13-21-111.7.

(2) FOR PURPOSES OF THIS SECTION, "ENGAGES IN SPORT SHOOTING ACTIVITIES" MEANS ENTERING AND EXITING A QUALIFYING SPORT SHOOTING RANGE, PREPARING TO SHOOT, WAITING TO SHOOT, SHOOTING, OR ASSISTING ANOTHER PERSON IN SHOOTING AT A QUALIFYING SPORT SHOOTING RANGE. THE TERM INCLUDES BEING A SPECTATOR AT A QUALIFYING SPORT SHOOTING RANGE AND BEING PRESENT IN THE RANGE FOR ANY REASON.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 1998