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H. B. 2831

(By Delegates Kurcaba, Householder, Statler, Wagner,
McGeehan, Zatezalo, Rodighiero, Butler, Weld, D. Evans and R. Phillips)

[Introduced February 20, 2015; referred to the
Committee on the Judiciary.]

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 exempting 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; criminal penalties for violations; and limitations on nuisance actions.

Be it enacted by the Legislature of West Virginia:

That §20-2-58 of the Code of West Virginia, 1931, as amended, be amended and 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.

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

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

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

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

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

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

12 (c) Notwithstanding the provisions of subsection (a) of this section, any person operating a
13 gun repair shop, licensed to do business in the State of West Virginia and duly licensed under
14 applicable federal statutes, may be exempted from the prohibition established by this section and
15 section twelve, article seven, chapter sixty-one of this code for the purpose of test firing a firearm.
16 Any person operating an indoor shooting range as defined in section twenty-three, article six, chapter
17 sixty-one of this code, licensed to do business in the State of West Virginia, and the patrons of the
18 indoor shooting range are exempt from the prohibition against discharging a firearm within five
19 hundred feet of any church, dwelling, park or other place where persons gather for purposes of
20 pleasure as established by this section, provided the range is constructed with reasonable care to
21 prevent the escape of a projectile from the range property. The Director of the Division of Natural
22 Resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption

1 under this section, unless the indoor shooting range is duly insured, and section twelve, article seven,
 2 chapter sixty-one and shall ensure that any person residing in any dwelling home within five hundred
 3 feet of such gun repair shop or indoor shooting range be given an opportunity to protest prior to the
 4 granting of ~~such~~ the exemption.

5 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

6 **ARTICLE 6. CRIMES AGAINST THE PEACE.**

7 **§61-6-23. Shooting range; limitations on nuisance actions.**

8 (a) As used in this section:

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

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

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

20 (c) A person who owned property in the vicinity of a an indoor shooting range that was
 21 established after the person acquired the property may maintain a nuisance action for noise against
 22 that range only if the action is brought within ~~four~~ one year after establishment of the range or

- 1 ~~two years after a substantial change in use of the range~~ one year from the beginning of shooting
- 2 activity resuming at an indoor shooting range that has been inactive for more than one year.
- 3 (d) ~~If there has been no shooting activity at a range for a period of two years, resumption of~~
- 4 ~~shooting is considered establishment of a new range for the purposes of this section.~~

NOTE: The purpose of this bill is to exempt indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of a church or dwelling house. The bill amends the definition of "shooting range" to include an indoor range.

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