

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4174**

(BY DELEGATES KURCABA, STATLER, WELD, FAST,  
KELLY, AZINGER, WAXMAN, BLAIR, UPSON, FRICH AND  
PHILLIPS, R)

[Introduced January 20, 2016;

referred to the Committee on Agriculture and Natural  
Resources then the Judiciary.]



1 A BILL to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §61-6-23 of said code, all relating to indoor shooting ranges;  
3 exempting activity at indoor shooting ranges from the prohibition of shooting or discharging  
4 a firearm within five hundred feet of any church or dwelling house; amending the definition  
5 of “shooting range” to include an indoor range; exempting activity at indoor shooting  
6 ranges from criminal penalties for violations for shooting or discharging a firearm within  
7 five hundred feet of any church or dwelling house; and limiting nuisance actions against  
8 shooting ranges.

*Be it enacted by the Legislature of West Virginia:*

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

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 park or other place where persons gather for purposes of pleasure;  
12 outside of a properly designed shooting range as agreed to by the Division of Natural Resources.

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) Nothing contained within this section shall be interpreted so as to prohibit or limit the  
26 establishment, operation, or use of an indoor shooting range, or to require public notice and  
27 comment for the establishment, operation, or use of an indoor shooting range within five hundred  
28 feet of any church, dwelling house or park: *Provided*, That the owner or operator of such shooting  
29 range maintains one of the following; a Type 01, Type 02, Type 06, Type 07, Type 08, Type 09,  
30 Type 10, or Type 11 Federal Firearms License, and, that such indoor shooting range is designed  
31 with reasonable care to prevent the escape of noise or a projectile from the range property.

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

14 (c) A person who owned property in the vicinity of a an outdoor shooting range that was  
15 established after the person acquired the property may maintain a nuisance action for noise  
16 against that range only if the action is brought within ~~four~~ two years after establishment of the  
17 range or two years from the beginning of shooting activity resuming at an outdoor shooting range  
18 that has been inactive for more than one year ~~after a substantial change in use of the range.~~

19 ~~(d) If there has been no shooting activity at a range for a period of two years, resumption~~  
20 ~~of shooting is considered establishment of a new range for the purposes of this section.~~

NOTE: The purpose of this bill is to exempt 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; to exempt activity at indoor shooting ranges from criminal penalties for shooting or discharging a firearm within five hundred feet of any church or dwelling house; and limiting nuisance actions against shooting ranges.

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