

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 575

SENATOR TRUMP, *original sponsor*

[Passed April 4, 2017; in effect 90 days from passage]

1 AN ACT to amend and reenact §61-6-23 of the Code of West Virginia, 1931, as amended, relating
2 generally to shooting ranges; limiting applicability of municipal and county noise
3 ordinances for shooting ranges to those ordinances in effect at the time construction of a
4 shooting range is begun or operation of a shooting range is begun, whichever is earlier in
5 time; declaring that shooting ranges taken by eminent domain which reopen within two
6 years of the final order of condemnation in the same municipality or county are subject to
7 the noise control standards in effect at the time construction or operation of the
8 condemned shooting range began, whichever occurred earlier in time; and declaring
9 legislative intent that amendments to the section enacted during the 2017 regular session
10 are retroactive.

Be it enacted by the Legislature of West Virginia:

1 That §61-6-23 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-23. Shooting range; limitations on nuisance actions; noise ordinances.

1 (a) As used in this section:

2 (1) "Person" means an individual, proprietorship, partnership, corporation, club or other
3 legal entity; and

4 (2) "Shooting range" means an area, whether indoor or outdoor, designed and operated
5 for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar
6 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 shooting range
9 was established as of the date of the person acquiring the property. If there is a substantial change
10 in use of the shooting range or there is a period of shooting inactivity at a shooting range for a
11 period exceeding one year after the person acquires the property, then the person may maintain

12 a nuisance action if the action is brought within two years from the beginning of the substantial
13 change in use of the shooting range, or the resumption of shooting activity: *Provided*, That if a
14 municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

15 (c) A person who owned property in the vicinity of a shooting range that was established
16 after the person acquired the property may maintain a nuisance action for noise against that
17 shooting range only if the action is brought within two years after the establishment of the shooting
18 range or two years after a substantial change in use of the shooting range or from the time
19 shooting activity is resumed: *Provided*, That if a municipal or county ordinance regulating noise
20 exists, subsection (e) of this section controls.

21 (d) Actions authorized by the provisions of this section are not applicable to any indoor
22 shooting range, the owner or operator of which holds all necessary and required licenses and the
23 shooting range being in compliance with all applicable state, county and municipal laws, rules or
24 ordinances regulating the design and operation of such facilities.

25 (e) (1) No municipal or county ordinance regulating noise may subject a shooting range to
26 noise control standards more stringent than those standards in effect at the time construction or
27 operation of the shooting range began, whichever occurred earlier in time. The operation or use
28 of a shooting range may not be enjoined based on noise, nor may any person be subject to an
29 action for nuisance or criminal prosecution in any matter relating to noise resulting from the
30 operation of a shooting range, if the shooting range is operating in compliance with all ordinances
31 relating to noise in effect at the time the construction or operation of the shooting range began,
32 whichever occurred earlier in time.

33 (2) No shooting range operating or approved for operation within this state which has been
34 condemned through an eminent domain proceeding, and which relocates to another site within
35 the same political subdivision within two years of the final condemnation order, may be subject to
36 any noise control standard more stringent than that in effect at the time construction or operation
37 of the shooting range which was condemned began, whichever occurred earlier in time.

38 (f) It is the intent of the Legislature in enacting the amendments to this section during the
39 2017 regular session of the Legislature that the amendments be applied retroactively.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2017.

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Governor