

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4174**

BY DELEGATES KURCABA, STATLER, WELD, FAST, KELLY,

AZINGER, WAXMAN, BLAIR, UPSON, FRICH AND

PHILLIPS,R

[Passed March 12, 2016; in effect ninety days from

passage.]

- 1 AN ACT 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 shooting ranges generally;
- 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 otherwise lawfully compliant; exempting  
6 activity at indoor shooting ranges from criminal penalties for violations for shooting or  
7 discharging a firearm within five hundred feet of any church or dwelling house; modifying  
8 and clarifying the limitations on nuisance actions against shooting ranges; and exempting  
9 indoor shooting ranges which have necessary licenses and are compliant with applicable  
10 laws, rules or ordinance from nuisance law.

*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 state, county or municipal park in areas of which the discharge of~~  
12 ~~firearms is prohibited or other place where persons gather for purposes of pleasure.~~

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) The provisions of this section are not applicable to indoor shooting ranges the owner  
26 or operator of which holds all necessary and required licenses and the shooting range is in  
27 compliance with all applicable state, county, municipal laws, rules or ordinances regulating the  
28 design and operation of such facilities.

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

14 (c) A person who owned property in the vicinity of a shooting range that was established  
15 after the person acquired the property may maintain a nuisance action for noise against that range  
16 only if the action is brought within ~~four~~ two years after establishment of the range or two years  
17 after a substantial change in use of the range or from the time shooting activity is resumed.

18 (d) ~~If there has been no shooting activity at a range for a period of two years, resumption~~  
19 ~~of shooting is considered establishment of a new range for the purposes of this section. Actions~~  
20 ~~authorized by the provisions of this section are not applicable to indoor shooting ranges the owner~~  
21 ~~or operator of which holds all necessary and required licenses and the shooting range is in~~  
22 ~~compliance with all applicable state, county and municipal laws, rules or ordinances regulating~~  
23 ~~the design and operation of such facilities.~~

Respectfully submitted,

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*Chair.*  
  
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*Conferees on the part of the Senate.*