

1                                   **NUISANCE CODE AMENDMENTS - SHOOTING**

2   **RANGES**

3   1998 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Bill Wright**

6 AN ACT RELATING TO NUISANCES; ENACTING PROVISIONS EXEMPTING EXISTING  
7 SHOOTING RANGES UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR  
8 ASSUMPTION OF THE RISK; AND PRESCRIBING WHEN A NUISANCE ACTION IS  
9 PERMITTED.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12                   **47-3-1**, Utah Code Annotated 1953

13                   **47-3-2**, Utah Code Annotated 1953

14                   **47-3-3**, Utah Code Annotated 1953

15 *Be it enacted by the Legislature of the state of Utah:*

16                   Section 1. Section **47-3-1** is enacted to read:

17   **CHAPTER 3. SHOOTING RANGES**

18                   **47-3-1. Shooting range exception.**

19                   (1) As used in this chapter:

20                   (a) "Generally accepted operation practices" are those that are established by a nationally  
21 recognized membership organization that:

22                   (i) provides voluntary firearm safety programs; and

23                   (ii) actively promotes safe shooting through procedures developed with consideration of  
24 reasonably available information regarding the safe operation of shooting ranges;

25                   (b) "Local government" means a county, city, or town;

26                   (c) "New shooting range" includes the resumption of shooting activities at the range after  
27 a period of three years during which no shooting activity has occurred at the range;

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

3           (e) "Shooting range" or "range" means an area designed and operated for the use of rifles,  
4 shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting.

5           (2) A local government may not enact an ordinance that requires a shooting range to  
6 eliminate or limit shooting that has occurred on a regular basis at the range prior to the enactment  
7 date of the ordinance.

8           (3) If a local government enacts or amends an ordinance relating to the operation of  
9 shooting ranges, and if the operation of the shooting range conformed to the law existing before  
10 the enactment or amendment of the ordinance, the range shall be permitted to continue to operate  
11 even if the operation of the range does not conform to the new ordinance or amendment.

12           (4) Any rule or regulation adopted by any state or local government that limits levels of  
13 outdoor noise shall apply only to noise produced as a result of a substantial change in the use of  
14 the shooting range and not to levels of noise existing at the time the rule or regulation was enacted.

15           (5) Regardless of whether the operation of the shooting range complies with an ordinance  
16 of a local government, a shooting range that exists as of May 4, 1998, and operates in compliance  
17 with generally accepted operation practices may engage in all of the following activities within its  
18 preexisting geographic boundaries:

19           (a) repair, remodel, or reinforce any conforming or nonconforming building or structure  
20 as may be necessary in the interest of public safety or to secure the continued use of the building  
21 or structure;

22           (b) reconstruct, repair, restore, or resume the use of a nonconforming building damaged  
23 by fire, collapse, explosion, act of god, or act of war occurring after May 4, 1998; or

24           (c) do anything authorized under generally accepted operation practices, including:

25           (i) expanding or increasing its membership or opportunities for public participation; and

26           (ii) expanding or increasing events and activities.

27           (6) (a) The reconstruction, repair, or restoration in Subsection (5) shall be completed  
28 within one year following the date of the damage or of the settlement of any property damage  
29 claim, whichever is later.

30           (b) If reconstruction, repair, or restoration is not completed within the one-year time period  
31 prescribed by Subsection (6)(a), the local government may, in its discretion, preclude the use of

1 the nonconforming building or structure.

2 Section 2. Section **47-3-2** is enacted to read:

3 **47-3-2. Assumption of risk.**

4 Each person who participates in shooting at a shooting range accepts the associated risks  
5 to the extent the risks are obvious and inherent. Those risks include injuries that may result from  
6 noise, discharge of projectile or shot, malfunction of shooting equipment not owned by the  
7 shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare  
8 spots, rocks, trees, and other forms of natural growth or debris.

9 Section 3. Section **47-3-3** is enacted to read:

10 **47-3-3. When nuisance action permitted.**

11 (1) Except as provided in Subsection (2), a person who operates or uses a shooting range  
12 in this state shall not be subject to civil liability or criminal prosecution for noise or noise pollution  
13 resulting from the operation or use of the range if:

14 (a) the range was established, constructed, or operated prior to the implementation of any  
15 noise ordinances, rules, or regulations; or

16 (b) the range is in compliance with any noise control laws, ordinances, rules, or regulations  
17 that applied to the range and its operation at the time of establishment, construction, or initial  
18 operation of the range.

19 (2) A nuisance action for noise may be maintained against a shooting range only by:

20 (a) a person who acquired property in the vicinity of a shooting range before the date the  
21 range was established if the action is brought:

22 (i) within five years after the establishment of the range; or

23 (ii) within three years after a substantial change in the use of the range; or

24 (b) a person who acquired property in the vicinity of a shooting range after the date the  
25 range was established for substantial change in the use of the range if the action is brought within  
26 three years from the beginning of the substantial change.

**Legislative Review Note**  
**as of 1-27-98 3:02 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**