

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 776

SPONSOR: Senators Bronson and Kirkpatrick

SUBJECT: Sport Shooting Ranges

DATE: March 5, 1999

REVISED: 3/10/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The bill relieves sport shooting ranges from civil and criminal liability for any claim of noise pollution, if the range was in compliance with any local noise control laws or ordinances at the time of construction and initial operation, and if the range experienced no substantial change in the nature of use.

The bill also allows sport shooting ranges that are in compliance with existing laws to continue operating when the range is in violation of any ordinances adopted or amended after the effective date of this bill.

This bill creates a new, unspecified section of law.

## II. Present Situation:

The right to enjoy one's property without interference from others was brought to this country with the common law and has long been recognized by the Florida Supreme Court. *Reaver v. Martin Theaters of Florida, Inc.*, 52 So.2d 682 (Fla. 1951) It is a tenet of Florida law that excessive noise pollution caused by the activities of one property owner provides an adjacent property owner with the right to seek the common law remedy of a nuisance and to attempt to prohibit the activity giving rise to the noise. *Rae v. Flynn*, 690 So.2d 1341 FN1 (Fla. 3d DCA 1997)

Florida law recognizes the need for regulation of noise. Article II, Section 7(a) of the State Constitution requires that "(a)adequate provision shall be made by law for the abatement of ...excessive and unnecessary noise." In response, the state has enacted a variety of laws to regulate noise. (See s. 403.415, F.S.; s. 403.031, F.S.; s. 327.65; & s. 335.17, F.S.)

The Florida Constitution and the Florida Legislature have granted local governments "home rule" powers -- the power of local self government. Counties and municipalities have exercised this

authority by passing ordinances regulating the protection of their air quality, to include noise pollution. (See s. 125.01, F.S., 1998 Supplement; & s. 166.021, F.S.)

### **III. Effect of Proposed Changes:**

This bill relieves sport shooting ranges from civil and criminal liability for any claim of noise pollution, if the range is in compliance with any noise control laws or ordinances applicable to the range at the time of construction and initial operation, and if the range experienced no substantial change in the nature of use.

This bill prohibits state courts from enjoining the use or operation of a sport shooting range on the basis of nuisance claims brought on by noise or noise pollution, if the range was in compliance with any noise control laws or ordinances that applied to the range and its operation at the time of construction or initial operation of the range.

The bill exempts sport shooting ranges from the regulations by any state department or agency that limits outdoor noise levels if the new regulations were passed after the time of construction and initial operation.

The bill prohibits any person from bringing a nuisance claim against a sport shooting range in which there has been no substantial change in the nature of use from its initial operation.

The bill also allows sport shooting ranges that are in compliance with existing laws to continue operating when the range is in violation of any ordinances adopted or amended after the effective date of this bill.

The bill does not exempt shooting ranges from actions for negligence or recklessness in the operation of the range. Local governments are not prohibited from regulating the location and construction of a sport shooting range after the effective date of this act.

Sport shooting range is defined as an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar type of sport shooting.

Section 2 provides that the act will take effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may reduce the number of criminal prosecutions by local government ordinance because it makes operators of sport shooting ranges immune from prosecution for violations of any noise ordinances created or amended after the date of the enactment of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Comprehensive Planning, Local and Military Affairs Committee:

This amendment explicitly exempts shooting ranges from any local ordinance if two conditions are met: the range was not in violation of any law when the range was constructed, and the range currently conforms to National Rifle Association gun safety and shooting range standards.