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H.296

Introduced by Representatives Clarkson of Woodstock and Deen of  
Westminster

Referred to Committee on

Date:

Subject: Conservation and development; municipal government; sport  
shooting ranges

Statement of purpose of bill as introduced: This bill proposes to amend  
provisions related to the operation of sport shooting ranges. Under the bill, a  
sport shooting range would be afforded a rebuttable presumption that it does  
not create nuisance if certain conditions are met. The bill would repeal the  
limitation that only an owner of property abutting a sport shooting range may  
bring a nuisance claim against the range. In addition, the bill would establish  
the authorized hours of operation for sport shooting ranges in the State. The  
bill also would repeal the prohibition on municipal regulation of firearms  
discharge at an existing sport shooting range.

An act relating to sport shooting ranges

It is hereby enacted by the General Assembly of the State of Vermont:

1 Sec. 1. 10 V.S.A. § 5227 is amended to read:

2 § 5227. SPORT SHOOTING RANGES; MUNICIPAL AND STATE

3 AUTHORITY

4 (a) “Sport shooting range” or “range” means an area designed and operated  
5 for the use of archery, rifles, shotguns, pistols, skeet, trap, black powder, or  
6 any other similar sport shooting.

7 (b) The owner or operator of a sport shooting range, ~~and~~ or a person  
8 lawfully using the range, who is in substantial compliance with any noise use  
9 condition of any issued municipal or ~~state~~ State land use permit otherwise  
10 required by law shall not be subject to any civil liability for damages or any  
11 injunctive relief resulting from noise or noise pollution, notwithstanding any  
12 provision of law to the contrary.

13 ~~(c) If no municipal or state land use permit is otherwise required by law,~~  
14 ~~then the owner or operator of the range and any person lawfully using the~~  
15 ~~range shall not be subject to any civil liability for damages or any injunctive~~  
16 ~~relief relating to noise or noise pollution. [Repealed.]~~

17 (d) Nothing in this section shall prohibit or limit the authority of a  
18 municipality or the ~~state~~ State to enforce any condition of a lawfully issued and  
19 otherwise required permit.

20 (e)(1) ~~In the event that the owner, operator, or user of a range is not~~  
21 ~~afforded the protection set forth in subsection (b) or (c) of this section, this~~

1 ~~subsection shall apply. A nuisance claim against a range may only be brought~~  
2 ~~by an owner of property abutting the range. The range shall have a rebuttable~~  
3 ~~presumption that the range does not constitute any form of nuisance if the~~  
4 ~~range meets the following conditions:~~

5 ~~(A) the range was established prior to the acquisition of the property~~  
6 ~~owned by the person bringing the nuisance claim; and~~

7 ~~(B) the frequency of the shooting or other alleged nuisance activity at~~  
8 ~~the range has not significantly increased since acquisition of the property~~  
9 ~~owned by the person bringing the nuisance claim.~~

10 ~~(2) The presumption that the range does not constitute a nuisance may~~  
11 ~~be rebutted only by an abutting property owner showing that the activity has a~~  
12 ~~noxious and significant interference with the use and enjoyment of the abutting~~  
13 ~~property In an action against a sport shooting range that is not otherwise~~  
14 ~~exempt under subsection (b) of this section, the sport shooting range shall be~~  
15 ~~entitled to a rebuttable presumption that the range does not constitute a~~  
16 ~~nuisance if the sport shooting range meets both of the following conditions:~~

17 ~~(A) it is established prior to surrounding activities unrelated to the~~  
18 ~~sport shooting range; and~~

19 ~~(B) it has not significantly changed since the commencement of the~~  
20 ~~prior surrounding activity.~~

1           (2) The presumption that a sport shooting range does not constitute a  
2           nuisance may be rebutted by a showing that the activity has a substantial  
3           adverse effect on health, safety, or welfare or has a noxious and significant  
4           interference with the use and enjoyment of the surrounding neighborhood.

5           (f) Prior to use of a sport shooting range after dark for purposes of training  
6           conducted by a federal, ~~state~~ State, county, or municipal law enforcement  
7           agency, the sport shooting range shall notify those homeowners and businesses  
8           with property abutting the range that have requested such notice from  
9           the range.

10          (g) If any subsection of this section is held invalid, the invalidity does not  
11          affect the other subsections of this section that can be given effect without the  
12          invalid subsection, and for this purpose, the subsections of this section are  
13          severable.

14          Sec. 2. 10 V.S.A. § 5227b is added to read:

15          § 5227b. SPORT SHOOTING RANGE HOURS OF OPERATION

16          A sport shooting range operating in the State shall allow the discharge of  
17          firearms only from 8:30 a.m. until 7:30 p.m. on Monday through Saturday and  
18          only from 1:00 p.m. until 7:30 p.m. on Sunday, unless:

19                 (1) a State or municipal permit authorizes other hours of operation; or

20                 (2) a municipality extends or limits the hours of operation further under  
21          an ordinance adopted under 24 V.S.A. § 2291.

1 Sec. 3. 24 V.S.A. § 2291 is amended to read:

2 § 2291. ENUMERATION OF POWERS

3 For the purpose of promoting the public health, safety, welfare, and  
4 convenience, a town, city, or incorporated village shall have the following  
5 powers:

6 \* \* \*

7 (8) To regulate or prohibit the use or discharge, but not possession of,  
8 firearms within the municipality or specified portions thereof, provided that an  
9 ordinance adopted under this subdivision shall be consistent with section 2295  
10 of this title ~~and shall not prohibit, reduce, or limit discharge at any existing~~  
11 ~~sport shooting range, as that term is defined in 10 V.S.A. § 5227.~~

12 \* \* \*

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on July 1, 2015.