

5  
6 **SENATE BILL No. 25**

7  
8 By Senator Emler

9  
10 1-16

11  
12 AN ACT concerning sport shooting ranges; relating to the regulation  
13 thereof; amending K.S.A. 2002 Supp. 58-3222, 58-3223 and 58-3224  
14 and repealing the existing sections.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2002 Supp. 58-3222 is hereby amended to read as  
18 follows: 58-3222. (a) ~~Notwithstanding any other provisions of law, and in~~  
19 ~~addition to other protections provided in this act,~~ A person who owns,  
20 operates, manages or uses a sport shooting range that conforms to gen-  
21 erally accepted operation practices in the state is not subject to civil lia-  
22 bility or criminal prosecution in any matter relating to noise or noise  
23 pollution resulting from the operation or use of the range if the range is  
24 in compliance with any noise control laws or ordinances or resolutions  
25 that applied to the range and its operation at the time of construction and  
26 initial operation of the range.

27 (b) ~~In addition to any civil protection provided by the act,~~ A person  
28 who owns, operates, manages or uses a sport shooting range that conforms  
29 to generally accepted operation practices is not subject to an action for  
30 nuisance, and a court of the state shall not enjoin or restrain the use or  
31 operation of a range on the basis of noise or noise pollution, if the range  
32 is in compliance with any noise control laws or ordinances or resolutions  
33 that applied to the range and its operation at the time of construction or  
34 initial operation of the range.

35 (c) Rules or regulations adopted by any state department or agency  
36 for limiting levels of noise in terms of decibel level which may occur in  
37 the outdoor atmosphere do not apply to a sport shooting range immune  
38 from liability under this act. ~~However, This subsection does not restrict~~  
39 *shall not be construed to restrict* the application of any provision of gen-  
40 erally accepted operation practices.

41 (d) A person who acquires title to real property adversely affected by  
42 the use of property with a permanently located and improved sport shoot-  
43 ing range constructed and initially operated prior to the time the person

1 acquires title shall not maintain a nuisance action on the basis of noise or  
2 noise pollution or based upon known or inherent dangers against the  
3 person who owns, operates or uses the range to restrain, enjoin, or impede  
4 the use of the range. This section does not prohibit actions for negligence  
5 or recklessness in the operation of the range.

6 Sec. 2. K.S.A. 2002 Supp. 58-3223 is hereby amended to read as  
7 follows: 58-3223. (a) A sport shooting range that is *constructed and* oper-  
8 ~~ated and is not in violation of~~ *in compliance with* state law at the time  
9 of the enactment of an ordinance or resolution shall be permitted to  
10 continue in operation even if the *construction and* operation of the sport  
11 shooting range ~~at a later date does not conform to the new ordinance or~~  
12 ~~resolution or amendment to an existing ordinance or resolution~~ *does not*  
13 *comply with an ordinance or resolution which is enacted or amended after*  
14 *the date on which construction or operation of the range commenced.*

15 (b) ~~If a sport shooting range that is was in existence as of the effective~~  
16 ~~date of this act and operates~~ *and operating on July 1, 2001, and if such*  
17 *range is in compliance with generally accepted operation practices, even*  
18 ~~if not in compliance with an~~ *and **was in compliance with** any ordinance*  
19 *or resolution of a local unit of government, in effect at the time of con-*  
20 *struction or initial operation of the range, such range shall be permitted*  
21 *to do all of the following within its preexisting geographic boundaries if*  
22 *in compliance with generally accepted operation practices:*

23 (1) Repair, remodel or reinforce any improvement or facilities or  
24 building or structure as may be necessary in the interest of public safety  
25 or to secure the continued use of the building or improvement;

26 (2) reconstruct, repair, rebuild or resume the use of a facility or build-  
27 ing damaged by fire, collapse, explosion, act of God or act of war occurring  
28 after the effective date of this act. The reconstruction, repair or restora-  
29 tion shall be completed within one year following the date of the damage  
30 or settlement of any property damage claim. If reconstruction, repair or  
31 restoration is not completed within one year as provided in this subsec-  
32 tion, such reconstruction, repair or restoration may be terminated in the  
33 discretion of the local unit of government; or

34 (3) do anything authorized under generally accepted operation prac-  
35 tices, including, but not limited to:

36 (A) Expand or enhance its membership or opportunities for public  
37 participation; and

38 (B) reasonably expand or increase facilities or activities.

39 Sec. 3. K.S.A. 2002 Supp. 58-3224 is hereby amended to read as  
40 follows: 58-3224. (a) Except as otherwise provided, the provisions of this  
41 act shall not prohibit a local unit of government from regulating the lo-  
42 cation and construction of a sport shooting range.

43 (b) No person or governmental entity may take title to property which

1 has a permanently located and improved sport shooting range, by con-  
2 demnation, eminent domain or similar process when the proposed use of  
3 ~~said the~~ property would be for shooting related activities or recreational  
4 activities or for private or commercial development. However, this pro-  
5 vision does not limit governmental exercise of eminent domain or ease-  
6 ment necessary for infrastructure additions or improvements, such as  
7 highways, waterways or utilities.

8 ~~(c) The governing body of any local unit of government may enact~~  
9 ~~and enforce an ordinance or resolution which provides for the gradual~~  
10 ~~elimination of sport shooting ranges which constitute nonconforming uses~~  
11 ~~**elimination of a sport shooting range which does not comply with**~~  
12 ~~**the provisions of section 2, and amendments thereto.** If a sport shoot-~~  
13 ~~ing range is closed or eliminated pursuant to this subsection, the owner~~  
14 ~~of such range shall be paid compensation for the value of the real estate~~  
15 ~~on which the range is located, any improvements located on such range~~  
16 ~~and for any economic loss resulting from the closing or elimination~~  
17 ~~thereof.~~

18 Sec. 4. K.S.A. 2002 Supp. 58-3222, 58-3223 and 58-3224 are hereby  
19 repealed.

20 Sec. 5. This act shall take effect and be in force from and after its  
21 publication in the Kansas register.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43