

1999 SENATE NATURAL RESOURCES

SB 2426

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2426

Senate Natural Resources Committee

Conference Committee

Hearing Date February 4, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-3900
1		x	2230-3435
Committee Clerk Signature <i>Jyla A. Tegen</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on SB2426: A BILL FOR AN ACT TO PROVIDE THAT THE OPERATION OF SPORT SHOOTING RANGES MAY NOT BE DEEMED A NUISANCE; TO PROVIDE AN EFFECTIVE DATE; AND TO DECLARE AN EMERGENCY.

SENATOR CHRISTMANN explained this bill is for the protection of shooting ranges in the event homeowners build near a shooting range so that the ranges will not be zoned out.

RICHARD JORGENSON, Devils Lake and ND Shooting Sports Ass'n clarified this bill came from the ND Shooting Sports Ass'n to Senator Christmann. The shooting ranges provide a significant public benefit, but at this time there are no shooting ranges that are impacted by this bill. We are looking at this as a likely occurrence in the future. Hunters need a place to site in their firearms.

SENATOR TRAYNOR asked have you visited all of the ranges in ND.

RICHARD JORGENSEN replied most of them. Some shooting ranges are located on land that has been donated by an individual or municipality.

SENATOR TRAYNOR asked if any of the shooting ranges have residences of proximity.

RICHARD JORGENSEN replied yes. One landowner donated land which has a shooting range that is in his back yard. Noise would be an easy complaint by a homeowner and we would like to prevent that.

SENATOR HEITKAMP stated if people set up residences around a shooting range, the shooting range would not belong there.

RICHARD JORGENSEN replied that because people can buy 40 acres of land outside of a city, and if they locate beside the shooting range, then this individual would have an opportunity to make a complaint. This could easily occur in ND because the state is less populated than others.

NANCY DIETZ, Cass Co. Wildlife Club testified in support of SB2426.

LEON NESJA, ND Shooting Sports testified in support of SB2426.

DEAN HILDEBRAND, ND Game and Fish Dept. testified in support of SB2426.

SENATOR HEITKAMP asked are local people losing their local control.

DEAN HILDEBRAND replied there are future zoning laws in effect now so if you don't have a range in a particular area you will need a special permit to do that and this bill allows that.

BILL WOCKEN, City of Bismarck testified in opposition to SB2426. (See attached testimony)

There are zoning regulations in place on the local level that can and should control this problem.

For a zoning commission to allow residential development to occur adjacent to a shooting range is irresponsible and not good land use. The local control with zoning is entirely proper. We do

have city, county and township zoning on the books and every jurisdiction has that available to them. There are zoning controls in locations in ND where there is population concentration where we do have the opportunity for a shooting range near a larger city which have exercised responsible zoning control and I believe that control should be adequate.

SENATOR CHRISTMANN asked because of the responsible approach taken in different areas, this has no affect on you.

BILL WOCKEN replied we hope this does not have an affect on us. Zoning by exception should not be written into the statute that regulates the local control. The local control would resolve this problem and there should be no need for this legislation.

CONNIE SPRYNCZYNATYK, ND League of Cities testified in opposition to SB2426 because zoning laws are already in place in state law to insure that this is not a problem. Local control is the best control. In the late 60's this legislature gave Home-Rule authority to cities and counties. The tools are in place and this intrudes on Home-Rule authority.

SENATOR TRAYNOR asked for an example of some specific language that protects the existing use of the property.

CONNIE SPRYNCZYNATYK replied she would provide that example.

RICHARD JORGENSON stated we are concerned about the existing shooting ranges regarding SB2426. The existing ranges are meeting all of the zoning requirements when they were first put together. Because these shooting ranges are operated by clubs with little capital, along with volunteer work from members, in the event of a complaint, we want protection so the local club does not have to be involved in litigation.

SENATOR TRAYNOR asked if there was comfort in the existing zoning laws which would give protection for those ranges that are now existing that you could not be dispossessed to your property without compensation.

RICHARD JORGENSON replied what would property compensation be. For this problem being brought forth in this bill, should the local people have to put up with a complaint. This bill gives them a tool to prevent that.

DEBORAH NESS, Bismarck Chief of Police stated from the law enforcement standpoint, it is a concern for the department as to how to enforce noise pollution problems when those complaints come to us. If we receive a complaint from an existing range because they decide to take on night firing, how can we enforce it if we have this exemption in state law. It will put law enforcement in a precarious situation. This bill would make it difficult for the department to address this.

SENATOR TRAYNOR closed the hearing on SB2426.

COMMITTEE ACTION-February 11, 1999-(Tape 1, Side B-Meter# 2230-3435) SENATOR CHRISTMANN moved for a DO PASS, seconded by SENATOR FISCHER. Roll call vote indicated 3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING. SENATOR CHRISTMANN volunteered to carry the bill.

Roll Call Vote #: /

Date: 2-11-99

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Natural Resources Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number SB2426

Action Taken Do pass

Motion Made By Christmann Seconded By Fischer

Senators	Yes	No	Senators	Yes	No
Senator John T. Traynor, Chr	✓				
Senator Tom Fischer, Vice Chr	✓				
Senator Randel Christmann	✓				
Senator Layton Freborg					
Senator Joel C. Heitkamp		✓			
Senator Rolland W. Redlin		✓			

Total (Yes) 3 No 2

Absent 1

Floor Assignment Sen. Christmann

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 1:52 p.m.

Module No: SR-28-2602
Carrier: Christmann
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2426: Natural Resources Committee (Sen. Traynor, Chairman) recommends DO PASS (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2426 was placed on the Eleventh order on the calendar.

1999 HOUSE NATURAL RESOURCES

SB 2426

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2426

House Natural Resources Committee

Conference Committee

Hearing Date 3/4/99

Tape Number	Side A	Side B	Meter #
1	x		49.7-end
1		x	0.0-33.7
2	x		53.6-56.4
Committee Clerk Signature <i>Robin D. Small</i>			

Minutes: SEN. CHRISTMANN introduces the bill. SEE HANDOUT.

REP. DROVDAL asks about noise ordinances. CHRISTMANN replies that they would not be able to deem stricter ordinances.

REP. NOTTESTAD asks if this request is because of a specific problem. CHRISTMANN replies that the ND SHOOTING SPORTS ASSOC. asked for it.

SUPPORT

RICK JORGENSEN, ND SHOOTING SPORTS ASSOC., SEE HANDOUTS.

REP. DROVDAL asks about a city growing around a shooting range. JORGENSEN states that it would be grandfathered in.

DEAN HILDEBRAND, ND GAME AND FISH DEPT., he talks about the many ranges that he helped build. HILDEBRAND states that maintaining the ranges that we already have, is needed.

PAUL CRARY, CASS COUNTY WILDLIFE CLUB, is in support of this bill.

Page 2

House Natural Resources Committee

Bill/Resolution Number 2426

Hearing Date 3/4/99

TOM THOMPSON, self, would like to state that he is a range supporter.

DAROLD ASBRIDGE, self, states that this bill is real need

OPPOSE

JERRY HJELMSTAD, ND LEAGUE OF CITIES, he talks about local control and other local governments wouldn't be able to go in and change it. HJELMSTAD urges the committee a do not pass motion.

REP. NELSON asks for an explanation of an instance where there was a problem. HJELMSTAD tells of bullets flying in a neighboring yard.

The hearing was then closed until later in the day when the committee took action. REP.

DEKREY moved for a DO PASS, seconded by REP. PORTER. The roll call vote was taken with

13 YES. 1 NO, 1 ABSENT. The motion carries. The CARRIER of the bill is

REP. MARTINSON.

Date: 3.4.99
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO.**

House House Natural Resources Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken 2426 Do Pass

Motion Made By DeKrey Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz	✓				
Vice-Chairman Dale Henegar	✓				
Representative David Drovdal	✓				
Representative Pat Galvin	✓				
Representative Duane DeKrey	✓				
Rep. Darrell D. Nottestad					
Representative Jon O. Nelson	✓				
Representative Byron Clark		✓			
Representative Todd Porter	✓				
Representative Jon Martinson	✓				
Representative Lyle Hanson	✓				
Representative Scot Kelsh	✓				
Representative Deb Lundgren	✓				
Representative Sally M. Sandvig	✓				
Representative Dorvan Solberg	✓				

Total (Yes) 13 No 1

Absent 1

Floor Assignment Martinson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 4, 1999 4:11 p.m.

Module No: HR-39-4072
Carrier: Martinson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2426, as engrossed: Natural Resources Committee (Rep. Grosz, Chairman)
recommends **DO PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).
Engrossed SB 2426 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2426

22426

Bismarck

W.C. (Bill) Wocken
City Administrator

221 North 5th Street • P.O. Box 5503
Bismarck, North Dakota 58502-5503

Telephone: (701) 222-6471
FAX: (701) 222-6470



3. Height. No building or structure shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building or structure is located.

4. Area and yards.

a. No building or structure shall be erected; nor shall any existing building or structure be altered, enlarged or rebuilt; nor shall any open space surrounding any building be encroached upon or reduced in any manner except in conformity with the yard, lot, area and building location regulations hereinafter designated for the district in which such building or open space is located.

b. No yard or other open space provided about any building, for the purpose of complying with the provisions of these regulations, shall be considered as a yard or open space for any other building; and no yard or other open space on one lot shall be considered as a yard or open space for a building on any other lot.

c. All yards required by these regulations shall be open and unobstructed to the sky, except as hereinafter provided.

5. Nonconforming uses. The director of inspections is authorized to issue a certificate of occupancy for a building if said building fully complies with the zoning ordinance in effect at the date of issuance of the building permit and with the building code and with other ordinances of the City of Bismarck.

14-03-05. Supplementary Provisions. The regulations specified in this title shall be subject to the following provisions and interpretations:

1. Structures excluded from height limits. A building height limit set forth in this title shall not apply to belfries, chimneys, cupolas, domes, flagpoles, flues, monuments, radio towers, spires, tanks, water towers or similar structures, nor to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure shall have a total area greater than one-third of the roof area of the building; nor shall such structure be used for any use other than a use incidental to the main use of the building. Nothing in this paragraph nor in this article shall be interpreted to permit the erection of any structure in violation of any applicable provisions of the Bismarck municipal airport zoning regulation ordinances.

Beimack

14-03-09. Nonconforming Uses. Any lawful use of the land or buildings existing at the date of passage of this title, and located in a district in which it would not be permitted as a new use under the regulations of this title, is hereby declared to be a nonconforming use, and not in violation of this title. Provided, however, a nonconforming use shall be subject to, and the owner shall comply with the following regulations:

1. Certificate of occupancy. After the adoption of this title, the owner of a nonconforming use shall be notified, by the building inspector, of the provisions of this title. Within thirty days after receipt of said notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for such certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within thirty days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this title. The building inspector and city attorney shall take appropriate action to enjoin such violation. If the building inspector shall find, upon reviewing the application for a certificate of occupancy that the existing use is illegal or in violation of other ordinances or laws, or if he finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the building code or zoning ordinance in effect at the time of construction or alteration, he shall not issue the certificate of occupancy, but shall declare such use to be in violation of this article.

2. Nonconforming use-Extension. The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the date of the adoption of this title. No nonconforming use may be extended to occupy any land outside the building nor any additional building not used for such nonconforming use at the date of adoption of this title. The nonconforming use of land shall not be extended to any additional land not so used at the date of the adoption of this title.

3. Nonconforming use-Additions, repair, alteration. No building used for a nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to one which complies with the provisions of this title. Provided, however, permits may be issued for the reconstruction of an existing building to be continued as a nonconforming use if the following conditions are complied with:

a. New use would decrease the number of living units or population density in case such is violated.

b. New use would decrease the automobile parking congestion in the area.

c. New use would not increase the cubical contents of the structure if such would violate provisions of this ordinance.

d. Such reconstruction would be one in accordance with the city building, plumbing, electrical codes and fire prevention code.

e. The issuance of such permit would not violate the provisions of paragraph 4 of this section.

In addition, repairs and maintenance work may be carried out each year in an amount not to exceed twenty-five percent of the assessed value of the building for that year. Such repairs and maintenance work shall not increase the cubical content of the building, nor the floor area devoted to the nonconforming use. Nor shall it increase the number of dwelling units provided in a building. Nothing in this article shall be deemed to prevent the strengthening or repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary conditions of the building, provided that such strengthening and repair may not be used to restore a building to the provisions of paragraph 4 of this section.

4. Nonconforming use-Destruction. If any building in which there is a nonconforming use is damaged by fire, flood, explosion, wind, war or other catastrophe, in an amount equal to or greater than fifty percent of its assessed valuation, it shall not be again used or reconstructed to be used for any use except one complying with the provisions of this article for the district in which it is located.

5. Nonconforming use-Moving building. Any building in which there is a nonconforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this title. If any building in which there is a nonconforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this article for the district in which it is located.

6. Nonconforming use-Change. A nonconforming use may be continued in accordance with the provisions of this section, but it shall not be changed to any other use except the one which would be permitted as a new use in the district in which the building is located.

7. Nonconforming use-Discontinuance.

a. If for any reason a nonconforming use of land ceases for a continuous period of more than thirty (30) days, the land shall thereafter not be used except in compliance with the provisions of this article for the district in which the land is located.

b. If for any reason a nonconforming use of a building ceases for a continuous period of more than six (6) months, the building shall thereafter not be used except in compliance with the provisions of this title for the district in which the building is located.

8. Nonconforming use-Continuance. Any legal nonconforming use, except those listed in paragraph 9 of this section, may be continued. The certificate of occupancy issued by the building inspector for a nonconforming use shall state that the use may be continued indefinitely or, for those uses listed in paragraph 9 of this section, that the use must be discontinued.

All periods of time shown below in paragraph 9 shall begin thirty-one (31) days after receipt by the owner of notice of the provisions of this title. Upon application to the board of adjustment the board may, in certain cases, extend the date of the certificate of occupancy for one period of time not to exceed the limit indicated in paragraph 9 of this section.

9. Nonconforming Use-Period of Continuance. Certain nonconforming uses, indicated in the following table shall be discontinued at the expiration of the periods of time shown, or at the expiration of one extension period, as provided in paragraph 8 of this section:

Nonconforming Use	Period of Continuance	Limit of Extension
Loam stripping	30 days	10 days
Garbage, trash dump	30 days	10 days
Livestock feeding	90 days	90 days
Junk, auto wrecking yard	180 days	30 days
Sand, gravel extraction	1 year	60 days
Other open uses of land	1 year	90 days

14-03-10. Off-Street Parking and Loading.

1. Off-street parking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building improvement or use, a plot plan showing the required space designated as being reserved for off-street parking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required parking space shall be of an area at least nine feet wide and eighteen feet in length, in addition to the ingress and egress driveways required, provided however, that parking spaces with at least three feet of clear overhang space need only be fifteen feet in length. All off-street parking spaces required shall have all-weather proof surface. The number of off-street parking spaces shall be provided on the basis of the following minimum requirements:

a. Dwellings:

1) Single-family and two-family dwellings
- Two (2) spaces for each dwelling unit.

2) Multiple-family dwellings - One (1) space for each efficiency unit; one and one-half spaces for each one-bedroom unit; two (2) spaces for each two-bedroom unit; two and one-half (2.5) spaces for each three-bedroom unit or larger.

b. Rooming houses: One space for each sleeping room rented, plus two (2) additional spaces for the owner or operator of the rooming house.

14-06-03. Appeal Procedure.

1. Appeal - How taken: An appeal to the board of adjustment may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board, or bureau affected by any decision of the chief of fire and inspections based in whole or in part upon the provisions of this article. Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rule, by filing with the chief of fire and inspections and with the board of adjustment a notice of appeal and specifying the grounds thereof. The chief of fire and inspections shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the chief of fire and inspections certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, and notice to the chief of fire and inspections and on due cause shown.

2. Appeal - Procedure. The board of adjustment shall fix a reasonable time for the hearing of an appeal or for action on any matter upon which it is required to pass under this article and give due notice thereof to interested parties, and make all decisions within a reasonable time. Upon any hearing, any party may appear in person or by agent or attorney. The concurring vote of four members of the board shall be necessary to reverse an order, requirement, decision or determination of the chief of fire and inspections or other official, or to decide in favor of the applicant any matter upon which it is required to pass under this article. The board shall adopt rules of procedure and shall keep records of applications and action thereon, which shall be a public record.

3. Appeal to the Board of City Commissioners. A decision of the board of adjustment may be appealed to the board of city commissioners by either the aggrieved applicant or by any officer, department, board, or bureau of the city by filing, within fifteen days after notice of the decision, with the city auditor a notice of appeal pursuant to the provisions of section 40-47-11, NDCC. The board of city commissioners shall fix a time, within thirty days, for the hearing of the appeal and shall give due notice of the hearing to the parties. The appeal shall be decided within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing of the board of city commissioners on the appeal. The board of city commissioners may reverse or affirm the decision of the board of adjustment, in whole or in part, or may modify the order, decision or determination appealed.

ARTICLE 9

NON-CONFORMING USES

Section 1. DEFINITION

Any lawful use of the land or buildings existing at the date of passage of this resolution, and located in a district in which it would not be permitted as a new use under the provisions of this regulation, is hereby declared to be a non-conforming use, and not in violation of this regulation at the date of adoption of such regulation. Provided, however, a non-conforming use shall be subject to, and the owner shall comply with the following regulations:

Section 2. EXPANSION OF NON-CONFORMING USES

- a. Is permitted within the limits of originally specified land.
- b. Is permitted within the limits of the originally accepted building.
- c. Is not permitted outside original building or beyond limits of specified land.

Section 3. ADDITIONS, REPAIRS, AND ALTERATIONS

- a. No building used for a non-conforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to one which complies with the provisions of this regulation.
- b. Repairs and maintenance work may be carried out each year in an amount not to exceed 25% of assessed value of the building for that year, but such repairs and maintenance work shall not increase the cubical content of the building nor the floor area devoted to the non-conforming use, nor shall it increase the number of dwelling units provided in a building.
- c. Nothing in this regulation shall be deemed to prevent the strengthening nor repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary conditions of the building, provided that such strengthening and repair may not be used to restore a building from the destructive causes outlined in Section 5 of this article.

Section 4. DESTRUCTION

If any building in which there is a non-conforming use is damaged by fire, flood, explosion, wind, war or other catastrophe, in an amount equal to or greater than 50 per cent of its assessed valuation, it shall not be again used or reconstructed to be used for any use except

one complying with the provisions of this regulation for the district in which it is located.

Section 5. MOVING BUILDINGS

Any building in which there is a non-conforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this regulation. If any building in which there is a non-conforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this regulation for the district in which it is located.

Section 6. CHANGE IN USE OF PROPERTY

A non-conforming use may be continued in accordance with the provisions of this section, but it shall not be changed to any other use except the one which would be permitted as a new use in the district in which the building is located.

Section 7. DISCONTINUANCE

- a. If, for any reason, a non-conforming use of land ceases for a continuous period of more than two years, the land shall thereafter not be used except in compliance with the provisions of this regulation for the district in which the land is located.
- b. If, for any reason a non-conforming occupancy of a building ceases for a continuous period of more than two years, the building shall thereafter not be used except in compliance with the provisions of this regulation for the district in which the building is located.

Section 8. CONTINUANCE

Any legal non-conforming use may be continued. The Certificate of Occupancy issued by the building inspector for a non-conforming use shall state that the use may be continued indefinitely.



Fact Sheet



National Rifle Association of America • Institute for Legislative Action • Research & Information Division
11250 Waples Mill Road • Fairfax, VA 22030 • 703-267-1170 • <http://www.nra.org>

8/12/98

Range Protection Laws

FIREARMS shooting ranges have established a long tradition of service to a wide variety of citizen groups in local communities. However, population shifts from urban to suburban or rural areas have moved new groups of citizens in closer proximity to existing ranges. In recent years, this has resulted in hundreds of lawsuits and complaints filed by newcomers against range owners or the passage of local ordinances aimed at closing ranges because of noise, times of operation and facility expansion to accommodate growing interest and shooting club membership levels. It is critical that states adopt legislation to ensure that ranges remain open for operation and that range owners are protected from civil court action, criminal prosecution, or other local board, commission, committee or similar-type body action.

Firearm shooting ranges have longstanding records of safely providing important public services and recreational or training opportunities.

➤ Firearm shooting ranges often serve as training facilities for local law enforcement officials and military personnel.

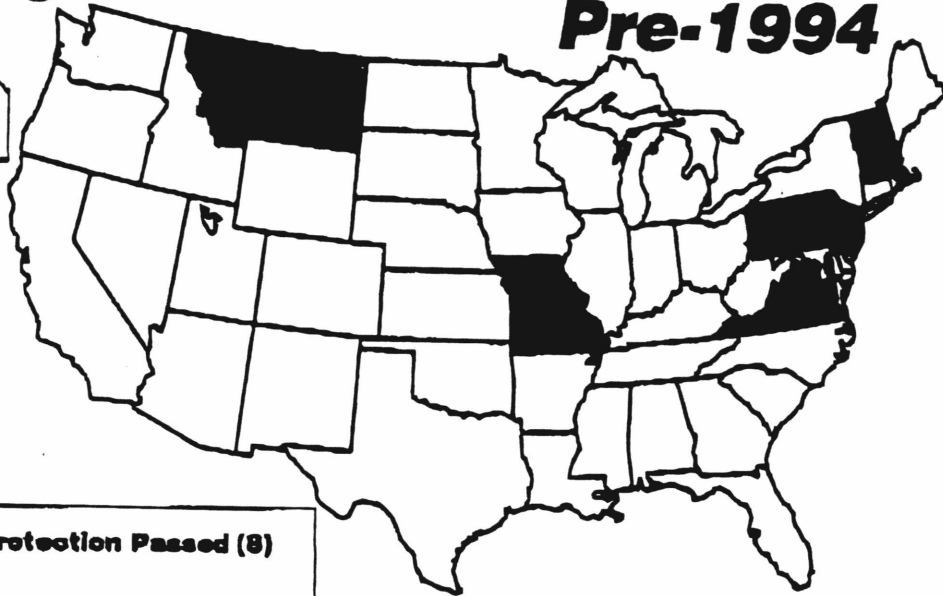
➤ Firearm shooting ranges offer firearm and hunter education and safety courses, providing invaluable hands-on instruction in the safe and proper handling and use of firearms for shooting club members or citizens exercising their fundamental right to self-protection.

➤ Firearm shooting ranges serve as a location to hold both informal practice sessions and organized competitions for those engaged in recreational shooting.

Without range protection laws, safe shooting ranges that offer valuable public services, facilities at which applicants for permits to carry firearms can receive training and practice, and recreational opportunities will be vulnerable to arbitrary sanctions by local bureaucrats.

In 1998, Colorado, Kentucky, Utah and Wisconsin passed bills protecting range owners and operators from nuisance lawsuits based on local noise standards. They joined other states that have enacted range protection laws in recent years, bringing the total number of states with these laws to 34.

Range Protection Statutes Pre-1994

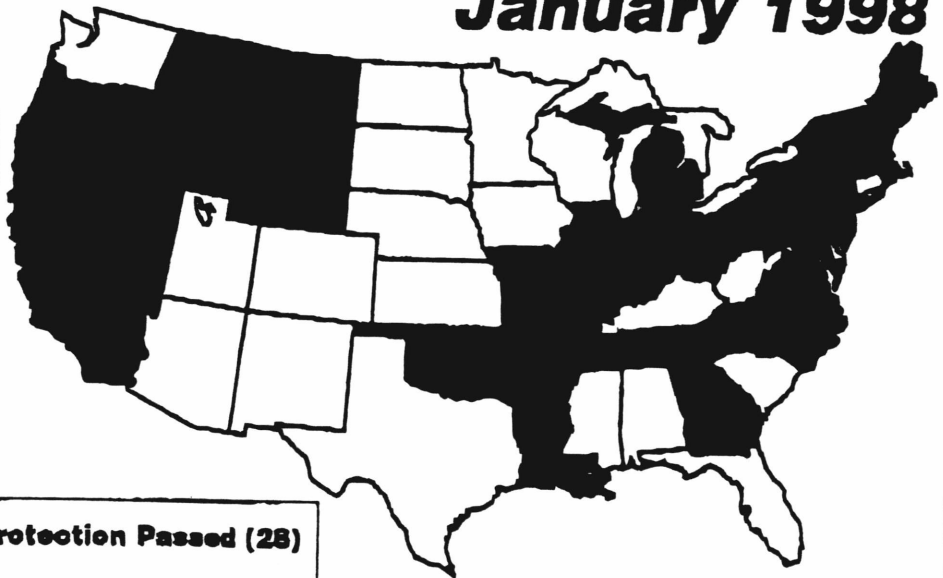


Range Protection Passed (8)

No Range Protection (42)

Since 1994, the number of states that have enacted shooting range protection legislation has more than doubled, jumping from eight to 28, as shown in these maps.

January 1998



Range Protection Passed (28)

No Range Protection (22)

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD
FAIRFAX, VIRGINIA 22030-7400

STATE & LOCAL AFFAIRS DIVISION
CHRISTOPHER OSWALD, STATE LIAISON

MEMORANDUM IN SUPPORT

TO: Honorable Members of the North Dakota
House Natural Resources Committee

FR: Christopher Oswald, NRA-ILA North Dakota State Liaison

RE: SB 2426, Shooting Range Protection Legislation

I respectfully submit our support for SB 2426, shooting range protection legislation recently referred to the North Dakota House Natural Resources committee for the following reasons:

1. More states are experiencing development that is occurring in the vicinity of shooting ranges, leading to noise complaints from neighbors aimed at shutting them down.

Population shifts to more rural areas move people in closer proximity to ranges that had purposefully been located away from development for decades. More ranges are facing noise complaints and nuisance lawsuits filed by their new neighbors. The cost of defending a single such suit is often enough to shut a range or club down. The existence of shooting ranges should be taken into consideration (as airports and feed lots often are) when development occurs and neighbors purchase homes near such facilities. SB 2426 offers much-needed protection to range owners and operators against arbitrary actions filed by newcomers.

2. Shooting ranges provide North Dakota law enforcement officers and civilians with safe places to train in the use of firearms and to shoot recreationally.

Law enforcement agencies and departments often use local rod and gun club facilities to train for firearms qualification purposes. These officers would be severely affected if their range or a local club was closed because it was declared a nuisance. Having to relocate and rebuild range facilities is extremely wasteful financially to already-stretched agency budgets. SB 2426 helps ensure that range facilities will also remain open to allow civilians to train in the safe handling and use of firearms and to sight-in their rifles for hunting season.

3. Shooting range protection is not a radical legislative proposal. SB 2426 does not prohibit an action for negligence or recklessness in the operation of the range from being brought against range owners and operators. Recognizing the valuable public services and safe recreational opportunities ranges offer, the number of states enacting shooting range protection laws has more than quadrupled over the last five years: jumping from 8 to 35 since just 1994. These include states with some of the greatest levels of gun control (Illinois, Massachusetts, New Jersey and New York, to name a few.) Just last week, the South Dakota legislature passed legislation protecting that state's shooting ranges, and Minnesota is currently considering legislation similar to SB 2426.

On behalf of the members of the National Rifle Association, as well the many NRA-affiliated gun clubs and ranges in the State of North Dakota, I strongly urge you to support SB 2426 when it comes before the committee for consideration.

March 4, 1999

Senate Bill: SB 2426

Senator Christmann introduced this legislation, at the request of the North Dakota Shooting Sports Association, to provide reasonable protection for sport shooting ranges. The legislation contained an emergency clause that would make it law immediately. The bill passed the Senate. However, I understand that the emergency clause failed.

Senate Bill 2426 provides very reasonable protection for the sport shooting ranges currently in existence. It prevents them from being declared a nuisance on the basis that they are noisy. So far as I know, nearly every sport shooting range in North Dakota is potentially subject to a claim that they are a noise polluter, if anyone should build a residence immediately adjacent to the sport shooting range.

For those sport shooting ranges that have been in existence for many years and operating in the same manner, it is our position that any person who builds next to a sport shooting range should be barred from making any claim that the range is a nuisance.

The local zoning authorities would likely not allow for the construction of any residence or development next to a sport shooting range. Indeed, when this bill was heard in The Senate Natural Resource committee, the zoning authorities from Bismarck clearly stated that they thought it would be extremely remiss for any zoning authority to allow for residential construction adjacent to a currently operated sport shooting range.

They then went on to object to the passage of this legislation on the basis that it removes local zoning authority from the hands of the local officials who are best able to manage the local zoning issues. They feel that this infringes on the home rule legislation that was heavily debated in the State Legislature a few years ago.

Thus, the local zoning officials admit that it would be inappropriate to allow zoning of housing development adjacent to a local sport shooting range. Yet they oppose the passage of this bill apparently simply on the basis that it infringes on their home rule rights to zone and manage the city or township or county development.

As you well know, land is often sold by one party to another for the purpose of development. This is particularly true anywhere within a 15 to 20 mile radius of large metropolitan area such as Bismarck, Fargo or Grand Forks.

Many of our sport shooting ranges are within that 15-mile area, and one can never know where a housing development might be established. The land sale from the original owner to the developer does not require any zoning. The developer will then go into the local zoning authority to ask that the land be declared and zoned for residential construction.

It is very hard for a local zoning authority to say no to such a request. This developer has already spent a lot of money on the land. The township, county & city authorities who might be involved in the zoning activity are all interested in local housing, as it produces far more tax revenue than agricultural property. Thus, the zoning authorities are predisposed to allow for residential construction. There is still likely no problem with the shooting range. However, once the developer then sells these individual lots to individuals for construction of homes or the development of a trailer park or something like this, then those individual property owners might object to the operation of the sport shooting range. Whatever their objection might be, their easiest complaint against the sport shooting range would be that it creates quite a bit of noise.

Our legislation would prevent such a complaint by a property owner adjacent to a sport shooting range.

It would also protect the local zoning authorities from those charges of noise pollution. They would be able to defend the operation of the sport shooting range as protected under the law created by this Senate bill 2426.

Obviously, we believe the operation of the sport shooting ranges benefits the public substantially. First of all, they offer an opportunity for live fire training under the North Dakota mandated Hunter Safety program. Secondly, they offer hunters and sportsmen an opportunity to increase their proficiency and properly familiarize themselves with their hunting firearm, so that they are safer in the field and more effective in the field. Finally, it offers a very positive recreational opportunity for the citizens of North Dakota in a managed environment that is safe for the public.

Certainly, the loss of a sport shooting range would move the hunters to many separate locations to sight in their deer rifles and practice with their shotguns. Many of these locations might be safe and some of them might not.

Thus, we think that the public safety is very positively enhanced by the continued operation of a sport shooting range.