

Title XLVI

Crimes

Chapter 790

Weapons and Firearms

Section 790.333

Sport shooting and training range protection; *liability*; claims, expenses, and fees; penalties; preemption; construction.--

(1) LEGISLATIVE FINDINGS.--

- (a) The Legislature finds that in excess of 400 sport shooting and training ranges exist on public and private lands throughout this state.
- (b) These sport shooting and training **ranges** are widely used and enjoyed by the residents of this state and **are a necessary component of the guarantees of the Second Amendment** to the United States Constitution and of s. 8, Art. I of the State Constitution.

(1)LEGISLATIVE FINDINGS

- (f) Over years of operation, projectiles have accumulated in the environment at many ranges. Whether this projectile accumulation has caused or will cause degradation of the environment or harm to human health depends on factors that are site-specific. Therefore, sport shooting and training ranges must be allowed flexibility to apply appropriate environmental management practices at ranges. The use of environmental management practices can be implemented to avoid or reduce any potential for adverse environmental impact.

(1) LEGISLATIVE FINDINGS

- (g) The Department of Environmental Protection, in collaboration with shooting range owners and operators, sport shooting organizations, law enforcement representatives, and university researchers, has developed **shooting range best management practices** in order to minimize any potential for any adverse environmental impact resulting from the operation of shooting ranges.
- (h) **Appropriate environmental management practices**, when implemented where applicable, can minimize or eliminate environmental impacts associated with projectiles. Environmental management practices to maintain or to improve the condition of ranges is evolving and will continue to evolve.

(1)LEGISLATIVE FINDINGS

- (j) The Department of Environmental Protection **does not have nor has it ever had authority to force permitting requirements of part IV of chapter 403 on owners and operators of ranges.**
- (k) The elimination of ranges will unnecessarily impair the ability of residents of this state to exercise and practice their constitutional guarantees under the Second Amendment to the United States Constitution and under s. 8, Art. I of the State Constitution.

(2) LEGISLATIVE INTENT.--The Legislature intends to protect public and private range owners, operators, users, employees, agents, contractors, customers, lenders, and insurers from lawsuits and other legal actions by [government] and to promote maximum flexibility for implementation of environmental management practices and of the principles of risk-based corrective action pursuant to s. 376.30701. It is also the intent of the Legislature that legal action against ranges will only be a last-resort option and be available only to the department and only after all reasonable efforts to resolve disputes at shooting ranges, including compliance assistance, negotiations, and alternative dispute resolution, have been attempted.

(3) DEFINITIONS.--As used in this act:

(d) "**Projectile**" means **any object expelled**, propelled, discharged, shot, or otherwise released **from a firearm, BB gun, airgun, or similar device**, including, but not limited to, gunpowder, ammunition, lead, shot, skeet, and trap targets and associated chemicals, derivatives, and constituents thereof.

(e) "**Environmental management practices**" includes but is not limited to Best Management Practices for Environmental Stewardship of Florida Shooting Ranges as developed by the Department of Environmental Protection. Such practices include, but **are not limited to, control and containment of projectiles, prevention of the migration of projectiles and their constituents to ground and surface water**, periodic removal and recycling of projectiles, and documentation of actions taken.

(3) DEFINITIONS

- (g) "**User**" means **any** person, partner, joint venture, business or social entity, or corporation, or **any** group of the foregoing, organized or united for a **business, sport, or social purpose**.
- (h) "Sport shooting and training range" or "**range**" means **any area** that **has been designed, or operated** for the use of, firearms, rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, BB guns, airguns, or similar devices, or **any** other **type of sport or training shooting**.

(4) DUTIES.--

- (a) No later than January 1, 2005, the department shall make a good faith effort to provide copies of the Best Management Practices for Environmental Stewardship of Florida Shooting Ranges to all owners or operators of sport shooting or training ranges. The department shall also provide technical assistance with implementing environmental management practices... if any owner or operator of sport shooting or training ranges requests such assistance.
- (b) No later than January 1, 2006, sport shooting or training range owners, operators, tenants, or occupants shall implement situation appropriate environmental management practices.

(4) DUTIES

- (c) If contamination is suspected or identified by any owner, operator, tenant, or **occupant** of sport shooting or training ranges, any owner, operator, tenant, or occupant of sport shooting or training ranges **may request that the department assist with or perform contamination assessment**, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(4) DUTIES

- (d) If contamination is suspected or identified by a third-party complaint or adjacent property sampling events, the department shall give 60 days' notice to the sport shooting or training range owner, operator, tenant, or occupant of the department's intent to enter the site for the purpose of investigating potential sources of contamination. The department may assist with or perform contamination assessment, including, but not limited to, assistance preparing and presenting a plan to confirm the presence and extent of contamination.

(4) DUTIES

- (e) If the department confirms contamination ... principles of risk-based corrective action pursuant to s.376.30701 shall be applied to ranges. Application of the minimum RBCA principles shall be the primary responsibility of the range owner or operator for implementation, however, the department may assist in these efforts. RBCA plans used for these cleanups shall be based upon the presumption that the range is an industrial use and not a residential use and will continue to be operated as a sport shooting or training range.

(5) RANGE PROTECTION.--

- (a) Notwithstanding any other provision of law, any public or private owner, operator, employee, agent, contractor, customer, lender, insurer, or user of any range located in this state shall have immunity from lawsuits and other legal actions from the [government] for any claims of any kind associated with the use, release, placement, deposition, or accumulation of any projectile in the environment, on or under that range, or any other property over which the range has a legal right of use, if the range owner or operator has made a good faith effort to comply with subsection (4).
- (b) Nothing in this act is intended to impair or diminish the private property rights of owners of property adjoining a range.

(6) WITHDRAWALS OF CLAIMS AND RECOVERY OF EXPENSES AND ATTORNEY'S FEES.--

- (a) Within 90 days after the effective date of this act becoming law, all claims by the [government] against ranges pending ... on January 1, 2004, shall be withdrawn. The termination of such cases shall have no effect on the **defendant's** cause of action for damages, reasonable attorney's fees, and costs.
- (b) **In any action filed in violation of this act after the effective date of this act, the defendant shall recover all expenses** resulting from such action **from the governmental body**, person, or entity bringing such **unlawful action**.

(7) PENALTIES.--Any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who intentionally and maliciously violates the provisions of this section or is party to bringing an action in violation of this section commits a misdemeanor of the first degree, punishable [by definite term of imprisonment not exceeding 1 year and/or fine of \$1000.]

(8) PREEMPTION.--Except as expressly provided by general law, the Legislature hereby declares that **it is occupying the whole field** of regulation of firearms and ammunition use at sport shooting and training ranges, **including the environmental effects of projectile deposition** at sport shooting and training ranges.

(9) The provisions of this act shall **supersede** any conflicting provisions of **chapter 376 or chapter 403.**

(10) CONSTRUCTION.--This act shall be **liberally construed** to effectuate its **remedial and deterrent purposes.**