

1 *House* BILL NO. *487*
 2 INTRODUCED BY *Jeffrey Russell Stephens*
 3 *Barbara J. Bel* *William Peterson* *Stacy*
 4 *Measure* A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING SHOOTING
 5 RANGE LOCATIONS; EXEMPTING SHOOTING RANGES FROM CERTAIN LAWS
 6 RELATING TO LITTER CONTROL, COMMUNITY DECAY, DISORDERLY
 7 CONDUCT, AND PUBLIC NUISANCE; AMENDING SECTIONS 7-5-2109,
 8 7-5-2110, 45-8-101, AND 45-8-111, MCA; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Policy. It is the policy of
13 the state of Montana to provide for the health, safety, and
14 welfare of the citizens of the state by promoting the safety
15 and enjoyment of the shooting sports among the citizens of
16 the state and by protecting the locations of and investment
17 in shooting ranges for shotgun, archery, rifle, and pistol
18 shooting.

19 NEW SECTION. Section 2. Prohibitions. (1) Standards
20 adopted by a state agency or unit of local government to
21 limit levels of noise that may occur in the outdoor
22 atmosphere may not apply to shooting ranges.

23 (2) Standards adopted by a state agency or unit of
24 local government promulgated pursuant to Title 75 and
25 concerning pollution by lead, copper, or brass may not limit

1 or prohibit the operation of a shooting range because of
2 lead, copper, or brass deposition resulting from shooting
3 activities.

4 NEW SECTION. Section 3. Planning -- effect on shooting
5 ranges. The laws of this state concerning planning, master
6 plans, or comprehensive plans may not be construed to
7 authorize an ordinance, resolution, or rule that would
8 prevent or inhibit the operation of a shooting range.

9 NEW SECTION. Section 4. Zoning -- effect on shooting
10 ranges. A planning district master plan, recommendation,
11 resolution, rule, or zoning designation may not prevent or
12 inhibit the operation of a shooting range.

13 NEW SECTION. Section 5. Closure of shooting ranges --
14 limitations -- relocation cost. (1) Except as provided in
15 subsection (2), an established shooting range may not be
16 prevented from operation by a state agency, unit of local
17 government, or court unless the range presents a clear and
18 provable safety hazard to the adjacent population.

19 (2) (a) If a pressing public need exists because of
20 incompatibility with nearby population or land use, an
21 established shooting range may be relocated by an agency of
22 state government, unit of local government, or court, but
23 only if all of the following conditions are met:

24 (i) pressing public need is documented through
25 hearings, testimony, and a clear and precise statement of

1 need by the agency, unit of local government, or court
2 involved;

3 (ii) a suitable alternative site for the range is
4 located and obtained by the agency or unit of local
5 government;

6 (iii) the agency or unit of local government ordering
7 relocation pays the entire cost of relocating the range,
8 including replacement of improvements, to a reasonably
9 suitable and reasonably similar facility and to a location
10 that is a similar distance from the populations served by
11 the original range; and

12 (iv) the maximum time that a range may be out of
13 operation because of relocation is 6 months.

14 (b) Upon final relocation of a range pursuant to this
15 section, the range operators shall relinquish their property
16 interest in the previous location in favor of the relocating
17 entity and must be granted a property interest in the new
18 location similar to that enjoyed by the range operators in
19 the vacated location.

20 (3) If a shooting range presents a clear and provable
21 safety hazard to adjacent population, the range may be
22 suspended from operation if:

23 (a) reasonable notice and opportunity to respond are
24 afforded the range operators; and

25 (b) reasonable opportunity is afforded the range

1 operators to correct any safety defects.

2 **Section 6.** Section 7-5-2109, MCA, is amended to read:

3 "7-5-2109. County control of litter. (1) (a) The
4 governing body of a county may regulate, control, and
5 prohibit littering on any county road and on land within the
6 county by the adoption of an ordinance that substantially
7 complies with the provisions of 7-5-103 through 7-5-107. The
8 ordinance may apply to portions of the county and may apply
9 to persons other than the owners of the property on which
10 littering occurs.

11 (b) The ordinance may not apply to lead, copper, or
12 brass deposits resulting from the shooting activities at a
13 shooting range.

14 (2) The governing body of a county may establish a fine
15 not to exceed \$200 as a penalty for violation of the
16 ordinance referred to in subsection (1). A violation of the
17 ordinance may not be punishable by imprisonment."

18 **Section 7.** Section 7-5-2110, MCA, is amended to read:

19 "7-5-2110. Community decay defined. (1) In 7-5-2111,
20 "community decay" means a public nuisance created by
21 allowing rubble, debris, junk, or refuse to accumulate
22 resulting in conditions that are injurious to health,
23 indecent, offensive to the senses, or obstruct the free use
24 of property so as to interfere with the comfortable
25 enjoyment of life or property.

1 (2) "Community decay" as used in 7-5-2111 may not be
2 construed or defined to apply to:

3 (a) normal farming, ranching, or other agricultural
4 operations or to a farm, ranch, or other agricultural
5 facility, and any appurtenances thereof, during the course
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7 (b) activities at a shooting range."

8 **Section 8.** Section 45-8-101, MCA, is amended to read:

9 **"45-8-101. Disorderly conduct.** (1) A person commits the
10 offense of disorderly conduct if he knowingly disturbs the
11 peace by:

12 (a) quarreling, challenging to fight, or fighting;

13 (b) making loud or unusual noises;

14 (c) using threatening, profane, or abusive language;

15 (d) discharging firearms, except at a shooting range;

16 (e) rendering vehicular or pedestrian traffic
17 impassable;

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19 private places impassable;

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21 public meeting;

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23 other catastrophe in such a place that its occurrence would
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25 (i) creating a hazardous or physically offensive

1 condition by any act that serves no legitimate purpose; or

2 (j) transmitting a false report or warning of an
3 impending explosion in such a place that its occurrence
4 would endanger human life.

5 (2) Except as provided in subsection (3), a person
6 convicted of the offense of disorderly conduct shall be
7 fined not to exceed \$100 or be imprisoned in the county jail
8 for a term not to exceed 10 days, or both.

9 (3) A person convicted of a violation of subsection
10 (1)(j) shall be fined not to exceed \$1,000 or be imprisoned
11 in the county jail for a term not to exceed 1 year, or
12 both."

13 **Section 9.** Section 45-8-111, MCA, is amended to read:

14 **"45-8-111. Public nuisance.** (1) "Public nuisance"
15 means:

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17 offensive to the senses, or obstructs the free use of
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21 (b) any premises where persons gather for the purpose
22 of engaging in unlawful conduct; or

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25 (2) A person commits the offense of maintaining a

1 public nuisance if he knowingly creates, conducts, or
2 maintains a public nuisance.

3 (3) Any act which affects an entire community or
4 neighborhood or any considerable number of persons (as
5 specified in subsection (1)(a)) is no less a nuisance
6 because the extent of the annoyance or damage inflicted upon
7 individuals is unequal.

8 (4) No agricultural or farming operation, place,
9 establishment, or facility or any of its appurtenances or
10 the operation thereof is or becomes a public nuisance
11 because of the normal operation thereof as a result of
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13 its locality if the agricultural or farming operation,
14 place, establishment, or facility has been in operation
15 longer than the complaining resident has been in possession
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17 (5) Noises resulting from the shooting activities at a
18 shooting range are not considered a public nuisance.

19 {5}{6} A person convicted of maintaining a public
20 nuisance shall be fined not to exceed \$500 or imprisoned in
21 the county jail for a term not to exceed 6 months, or both.
22 Each day of such conduct constitutes a separate offense."

23 NEW SECTION. Section 10. Applicability. [This act]
24 applies to shooting ranges in operation on or after [the
25 effective date of this act].

1 NEW SECTION. Section 11. Severability. If a part of
2 [this act] is invalid, all valid parts that are severable
3 from the invalid part remain in effect. If a part of [this
4 act] is invalid in one or more of its applications, the part
5 remains in effect in all valid applications that are
6 severable from the invalid applications.

7 NEW SECTION. Section 12. Effective date. [This act] is
8 effective on passage and approval.

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

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2 INTRODUCED BY WYATT, DRISCOLL, STEPLER, FORRESTER, CLARK,
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1 county by the adoption of an ordinance that substantially
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23 maintains a public nuisance."

24 (3) Any act which affects an entire community or
25 neighborhood or any considerable number of persons (as

1 specified in subsection (1)(a)) is no less a nuisance
2 because the extent of the annoyance or damage inflicted upon
3 individuals is unequal.

4 (4) No agricultural or farming operation, place,
5 establishment, or facility or any of its appurtenances or
6 the operation thereof is or becomes a public nuisance
7 because of the normal operation thereof as a result of
8 changed residential or commercial conditions in or around
9 its locality if the agricultural or farming operation,
10 place, establishment, or facility has been in operation
11 longer than the complaining resident has been in possession
12 or commercial establishment has been in operation.

13 (5) Noises resulting from the shooting activities at a
14 shooting range DURING ESTABLISHED HOURS OF OPERATION are not
15 considered a public nuisance.

16 (5)(6) A person convicted of maintaining a public
17 nuisance shall be fined not to exceed \$500 or imprisoned in
18 the county jail for a term not to exceed 6 months, or both.
19 Each day of such conduct constitutes a separate offense."

20 NEW SECTION. Section 10. Applicability. [This act]
21 applies to shooting ranges in operation on or after [the
22 effective date of this act].

23 NEW SECTION. Section 11. Severability. If a part of
24 [this act] is invalid, all valid parts that are severable
25 from the invalid part remain in effect. If a part of [this

1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

4 NEW SECTION. **Section 12.** Effective date. [This act] is
5 effective on passage and approval.

-End-

1 HOUSE BILL NO. 487

2 INTRODUCED BY WYATT, DRISCOLL, STEPLER, FORRESTER, CLARK,
3 G. BECK, ELLIS, ELLISON, PETERSON, STANG, DARKO, STRIZICH,
4 MEASURE, D. BROWN
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING SHOOTING
7 RANGE LOCATIONS; EXEMPTING SHOOTING RANGES FROM CERTAIN LAWS
8 RELATING TO LITTER CONTROL, COMMUNITY DECAY, DISORDERLY
9 CONDUCT, AND PUBLIC NUISANCE; AMENDING SECTIONS 7-5-2109,
10 7-5-2110, 45-8-101, AND 45-8-111, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Policy. It is the policy of
15 the state of Montana to provide for the health, safety, and
16 welfare of the citizens of the state by promoting the safety
17 and enjoyment of the shooting sports among the citizens of
18 the state and by protecting the locations of and investment
19 in shooting ranges for shotgun, archery, rifle, and pistol
20 shooting.

21 NEW SECTION. Section 2. Prohibitions. (1) Standards
22 adopted by a state agency or unit of local government to
23 limit levels of noise that may occur in the outdoor
24 atmosphere may not apply to shooting ranges.

25 (2) Standards adopted by a state agency or unit of

1 local government promulgated pursuant to Title 75 and
2 concerning pollution by lead, copper, or brass may not limit
3 or prohibit the operation of a shooting range because of
4 lead, copper, or brass deposition resulting from shooting
5 activities.

6 NEW SECTION. Section 3. Planning -- effect on shooting
7 ranges. The laws of this state concerning planning, master
8 plans, or comprehensive plans may not be construed to
9 authorize an ordinance, resolution, or rule that would:

10 (1) prevent or-inhibit the operation of a AN EXISTING
11 shooting range AS A NONCONFORMING USE;

12 (2) PROHIBIT THE ESTABLISHMENT OF NEW SHOOTING RANGES,
13 BUT IT MAY REGULATE THE CONSTRUCTION OF SHOOTING RANGES TO
14 SPECIFIED ZONES; OR

15 (3) PREVENT THE ERECTION OR CONSTRUCTION OF SAFETY
16 IMPROVEMENTS ON EXISTING SHOOTING RANGES.

17 NEW SECTION. Section 4. Zoning -- effect on shooting
18 ranges. A planning district master plan, recommendation,
19 resolution, rule, or zoning designation may not:

20 (1) prevent or-inhibit the operation of a AN EXISTING
21 shooting range AS A NONCONFORMING USE;

22 (2) PROHIBIT THE ESTABLISHMENT OF NEW SHOOTING RANGES,
23 BUT IT MAY REGULATE THE CONSTRUCTION OF SHOOTING RANGES TO
24 SPECIFIED ZONES; OR

25 (3) PREVENT THE ERECTION OR CONSTRUCTION OF SAFETY

1 IMPROVEMENTS ON EXISTING SHOOTING RANGES.

2 NEW SECTION. Section 5. Closure of shooting ranges --
3 limitations -- relocation cost. (1) Except as provided in
4 subsection (2), an established shooting range may not be
5 prevented from operation by a state agency, unit of local
6 government, or court unless the range presents a clear and
7 provable safety hazard to the adjacent population.

8 (2) ~~(a)~~ If a pressing public need exists because of
9 incompatibility with nearby population or land use, an
10 established shooting range may be relocated by an agency of
11 state government, unit of local government, or court, but
12 only if all of the following conditions are met:

13 ~~(i)~~ (A) pressing public need is documented through
14 hearings, testimony, and a clear and precise statement of
15 need by the agency, unit of local government, or court
16 involved;

17 ~~(ii)~~ a suitable alternative site for the range is
18 located and obtained by the agency or unit of local
19 government;

20 ~~(iii)~~ the agency or unit of local government ordering
21 relocation pays the entire cost of relocating the range,
22 including replacement of improvements, to a reasonably
23 suitable and reasonably similar facility and to a location
24 that is a similar distance from the populations served by
25 the original range; and

1 ~~(iv)~~ the maximum time that a range may be out of
2 operation because of relocation is 6 months;

3 ~~(b)~~ Upon final relocation of a range pursuant to this
4 section, the range operators shall relinquish their property
5 interest in the previous location in favor of the relocating
6 entity and must be granted a property interest in the new
7 location similar to that enjoyed by the range operators in
8 the vacated location;

9 (B) THE AGENCY OR UNIT OF LOCAL GOVERNMENT OBTAINING
10 THE CLOSURE PAYS THE APPRAISED COST OF THE LAND TOGETHER
11 WITH IMPROVEMENTS TO THE OPERATORS OF THE SHOOTING RANGE. IN
12 RETURN THE SHOOTING RANGE OPERATORS SHALL RELINQUISH THEIR
13 INTEREST IN THE PROPERTY TO THE AGENCY OR UNIT OF LOCAL
14 GOVERNMENT OBTAINING THE CLOSURE.

15 (3) If a shooting range presents a clear and provable
16 safety hazard to adjacent population, the range may be
17 suspended from operation if:

18 (a) reasonable notice and opportunity to respond are
19 afforded the range operators; and

20 (b) reasonable opportunity is afforded the range
21 operators to correct any safety defects.

22 **Section 6.** Section 7-5-2109, MCA, is amended to read:

23 "7-5-2109. County control of litter. (1) (a) The
24 governing body of a county may regulate, control, and
25 prohibit littering on any county road and on land within the

1 county by the adoption of an ordinance that substantially
 2 complies with the provisions of 7-5-103 through 7-5-107. The
 3 ordinance may apply to portions of the county and may apply
 4 to persons other than the owners of the property on which
 5 littering occurs.

6 (b) The ordinance may not apply to lead, copper, or
 7 brass deposits DIRECTLY resulting from the shooting
 8 activities at a shooting range.

9 (2) The governing body of a county may establish a fine
 10 not to exceed \$200 as a penalty for violation of the
 11 ordinance referred to in subsection (1). A violation of the
 12 ordinance may not be punishable by imprisonment."

13 **Section 7.** Section 7-5-2110, MCA, is amended to read:

14 "7-5-2110. **Community decay defined.** (1) In 7-5-2111,
 15 "community decay" means a public nuisance created by
 16 allowing rubble, debris, junk, or refuse to accumulate
 17 resulting in conditions that are injurious to health,
 18 indecent, offensive to the senses, or obstruct the free use
 19 of property so as to interfere with the comfortable
 20 enjoyment of life or property.

21 (2) "Community decay" as used in 7-5-2111 may not be
 22 construed or defined to apply to:

23 (a) normal farming, ranching, or other agricultural
 24 operations or to a farm, ranch, or other agricultural
 25 facility, and any appurtenances thereof, during the course

1 of its normal operations; or

2 (b) NORMAL activities at a shooting range."

3 **Section 8.** Section 45-8-101, MCA, is amended to read:

4 "45-8-101. **Disorderly conduct.** (1) A person commits the
 5 offense of disorderly conduct if he knowingly disturbs the
 6 peace by:

7 (a) quarreling, challenging to fight, or fighting;

8 (b) making loud or unusual noises;

9 (c) using threatening, profane, or abusive language;

10 (d) discharging firearms, except at a shooting range

11 DURING ESTABLISHED HOURS OF OPERATION;

12 (e) rendering vehicular or pedestrian traffic
 13 impassable;

14 (f) rendering the free ingress or egress to public or
 15 private places impassable;

16 (g) disturbing or disrupting any lawful assembly or
 17 public meeting;

18 (h) transmitting a false report or warning of a fire or
 19 other catastrophe in such a place that its occurrence would
 20 endanger human life;

21 (i) creating a hazardous or physically offensive
 22 condition by any act that serves no legitimate purpose; or

23 (j) transmitting a false report or warning of an
 24 impending explosion in such a place that its occurrence
 25 would endanger human life.

1 (2) Except as provided in subsection (3), a person
 2 convicted of the offense of disorderly conduct shall be
 3 fined not to exceed \$100 or be imprisoned in the county jail
 4 for a term not to exceed 10 days, or both.

5 (3) A person convicted of a violation of subsection
 6 (1)(j) shall be fined not to exceed \$1,000 or be imprisoned
 7 in the county jail for a term not to exceed 1 year, or
 8 both."

9 **Section 9.** Section 45-8-111, MCA, is amended to read:

10 **"45-8-111. Public nuisance.** (1) "Public nuisance"
 11 means:

12 (a) a condition which endangers safety or health, is
 13 offensive to the senses, or obstructs the free use of
 14 property so as to interfere with the comfortable enjoyment
 15 of life or property by an entire community or neighborhood
 16 or by any considerable number of persons;

17 (b) any premises where persons gather for the purpose
 18 of engaging in unlawful conduct; or

19 (c) a condition which renders dangerous for passage any
 20 public highway or right-of-way or waters used by the public.

21 (2) A person commits the offense of maintaining a
 22 public nuisance if he knowingly creates, conducts, or
 23 maintains a public nuisance.

24 (3) Any act which affects an entire community or
 25 neighborhood or any considerable number of persons (as

1 specified in subsection (1)(a)) is no less a nuisance
 2 because the extent of the annoyance or damage inflicted upon
 3 individuals is unequal.

4 (4) No agricultural or farming operation, place,
 5 establishment, or facility or any of its appurtenances or
 6 the operation thereof is or becomes a public nuisance
 7 because of the normal operation thereof as a result of
 8 changed residential or commercial conditions in or around
 9 its locality if the agricultural or farming operation,
 10 place, establishment, or facility has been in operation
 11 longer than the complaining resident has been in possession
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 14 shooting range DURING ESTABLISHED HOURS OF OPERATION are not
 15 considered a public nuisance.

16 ~~(5)~~(6) A person convicted of maintaining a public
 17 nuisance shall be fined not to exceed \$500 or imprisoned in
 18 the county jail for a term not to exceed 6 months, or both.
 19 Each day of such conduct constitutes a separate offense."

20 **NEW SECTION. Section 10. Applicability.** [This act]
 21 applies to shooting ranges in operation on or after [the
 22 effective date of this act].

23 **NEW SECTION. Section 11. Severability.** If a part of
 24 [this act] is invalid, all valid parts that are severable
 25 from the invalid part remain in effect. If a part of [this

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1 act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are
3 severable from the invalid applications.

4 NEW SECTION. **Section 12.** Effective date. (This act] is
5 effective on passage and approval.

-End-