

HOUSE BILL 244

Introduced by Swift, et al.

1/17	Introduced
1/18	Referred to Local Government
1/18	Fiscal Note Requested
1/24	Fiscal Note Received
1/25	Fiscal Note Printed
1/26	Hearing
2/08	Committee Report--Bill Passed as Amended
2/10	2nd Reading Passed
2/13	3rd Reading Passed

Transmitted to Senate

2/14	Referred to Fish & Game
2/28	Hearing
3/08	Rereferred to Local Government
3/16	Hearing
3/23	Committee Report--Bill Not Concurred
3/23	Adverse Committee Report Adopted

1 HOUSE BILL NO. 244
 2 INTRODUCED BY Swift Chief Thane
 3 Sponsors: Dave Brown, David Smith, Swift Surgeon
 4 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, 45-8-111, AND 76-2-206, MCA; AND
 9 PROVIDING AN 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 any state agency or any unit of local government
 21 to limit levels of noise that may occur in the outdoor
 22 atmosphere may not apply to shooting ranges.

23 (2) Standards adopted by any state agency or any unit
 24 of 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 any shooting range because of
 2 lead, copper, or brass deposition resulting from shooting
 3 activities.

4 NEW SECTION. Section 3. Planning -- effect on
 5 shooting ranges. Title 76, chapter 1, may not be construed
 6 to authorize an ordinance, resolution, or rule that would
 7 prevent or inhibit the operation of a shooting range.

8 NEW SECTION. Section 4. Zoning -- effect on shooting
 9 ranges. (1) Except as provided in subsection (2), a planning
 10 district master plan, recommendation, resolution, or rule
 11 adopted pursuant to Title 76, chapter 2, may not prevent or
 12 inhibit the operation of a shooting range.

13 (2) A zoning regulation or interim resolution adopted
 14 pursuant to 76-2-206 may prevent or inhibit the operation of
 15 a shooting range. The regulation or resolution may be
 16 adopted only once and be effective for a maximum of 6
 17 months.

18 NEW SECTION. Section 5. Closure of shooting ranges --
 19 limitations -- relocation cost. (1) A shooting range may not
 20 be prevented from operation by any state agency, unit of
 21 local government, or court unless the range presents a clear
 22 and provable safety hazard to an adjacent population and
 23 fails to meet the minimum range safety standards established
 24 by the national rifle association of America.

25 (2) If the shooting range has been in operation longer

than the adjacent jeopardized population has been established, the agency responsible for issuing the order for closure shall pay the entire cost of relocating the shooting range to a reasonably similar and suitable facility that is a similar distance from the population served by the shooting range.

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

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

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

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

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

"7-5-2110. Community decay defined. (1) In 7-5-2111, "community decay" means a public nuisance created by

allowing rubble, debris, junk, or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property.

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

(a) normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or

(b) activities at a shooting range."

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

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

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

(b) making loud or unusual noises;

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

(d) discharging firearms except at a shooting range;

(e) rendering vehicular or pedestrian traffic impassable;

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

(g) disturbing or disrupting any lawful assembly or

public meeting;

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

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

(2) A person convicted of the offense of disorderly conduct shall be fined not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or both."

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

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

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

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

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

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

maintains a public nuisance.

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

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

(5) Noises resulting from the shooting activities at a shooting range are not considered a public nuisance.

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

Section 10. Section 76-2-206, MCA, is amended to read:

"76-2-206. Interim zoning map or regulation. (1) If a county is conducting or in good faith intends to conduct studies within a reasonable time or has held or is holding a

hearing for the purpose of considering a master plan or zoning regulations or an amendment, extension, or addition to either pursuant to this part, the board of county commissioners in order to promote the public health, safety, morals, and general welfare may adopt as an emergency measure a temporary interim zoning map or temporary interim zoning regulation, the purpose of which shall be to classify and regulate uses and related matters as constitutes the emergency.

(2) Such Except as provided in [section 4], such interim resolution shall be limited to 1 year from the date it becomes effective. The board of county commissioners may extend such interim resolution for 1 year, but not more than one such extension may be made."

NEW SECTION. Section 11. Rulemaking authority. The fish and game commission may adopt rules in accordance with [sections 1, 2, and 5] for the relocation of shooting ranges. The rules must include reasonable provisions for notice and hearing. The commission may adopt shooting safety guidelines and minimum safety standards for shooting ranges. The minimum safety standards may not be more restrictive than the minimum range safety standards adopted by the national rifle association of America.

NEW SECTION. Section 12. Applicability. [This act] applies to shooting ranges in operation on or after [the

effective date of this act].

NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB244, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB244 would limit the actions that can be taken to close or relocate a shooting range; exempt shooting ranges from certain litter, community decay, public nuisance and disorderly conduct laws; and provide the Dept. of Fish, Wildlife and Parks with certain rule-making authority related to the operation and location of shooting ranges.

ASSUMPTIONS:

1. Existing department staff will absorb the responsibilities under this act.
2. The department will publish public notice through the Montana Administrative Register and the local newspaper and conduct a public hearing in the event a shooting range is scheduled for relocation.
3. One shooting range will be relocated each year and two department employees would travel an average of 300 miles to and from the hearing.

FISCAL IMPACT:Expenditures:

	Current Law	FY90 Proposed Law	Difference	Current Law	FY91 Proposed Law	Difference
Dept. Fish, Wildlife and Parks						
Operating Expenses	-0-	\$217	\$217	-0-	\$217	\$217

Funding:

State Special Revenue	-0-	\$217	\$217	-0-	\$217	\$217
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Revenue:

Special Revenue Account	-0-	(\$217)	(\$217)	-0-	(\$217)	(\$217)
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RAY/SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/24/89

DATE



BERNIE SWIFT, PRIMARY SPONSOR

DATE

Fiscal Note for HB244, as introduced

HB 244

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 244

INTRODUCED BY SWIFT, CLARK, THOMAS, SEVERSON,

D. BROWN, SPAETH, NATHE, THOFT, SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING SHOOTING RANGE LOCATIONS; EXEMPTING SHOOTING RANGES FROM CERTAIN LAWS RELATING TO LITTER CONTROL, COMMUNITY DECAY, DISORDERLY CONDUCT, AND PUBLIC NUISANCE; AMENDING SECTIONS 7-5-2109, 7-5-2110, 45-8-101, 45-8-111, AND 76-2-206, MCA; AND PROVIDING AN EFFECTIVE DATE."

STATEMENT OF INTENT

House Bill 244 calls for shooting safety guidelines and minimum safety standards for shooting ranges. Guidelines are intended to be advisory only. Standards are intended to be obligatory.

The minimum safety standards may not be more restrictive than the minimum range safety standards adopted by the national rifle association of America.

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

NEW SECTION. Section 1. Policy. It is the policy of the state of Montana to provide for the health, safety, and welfare of the citizens of the state by promoting the safety and enjoyment of the shooting sports among the citizens of

the state and by protecting the locations of and investment in shooting ranges for shotgun, archery, rifle, and pistol shooting.

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

(2) Standards adopted by any state agency or any unit of local government promulgated pursuant to Title 75 and concerning pollution by lead, copper, or brass may not limit or prohibit the operation of any shooting range because of lead, copper, or brass deposition resulting from shooting activities.

NEW SECTION. Section 3. Planning -- effect on shooting ranges. Title 76, chapter 1, may not be construed to authorize an ordinance, resolution, or rule that would prevent or inhibit the operation of a shooting range.

NEW SECTION. Section 4. Zoning -- effect on shooting ranges. (1) Except as provided in subsection (2), a planning district master plan, recommendation, resolution, or rule adopted pursuant to Title 76, chapter 2, may not prevent or inhibit the operation of a shooting range.

(2) A zoning regulation or interim resolution adopted pursuant to 76-2-206 may prevent or inhibit the operation of a shooting range. The regulation or resolution may be

adopted only once and be effective for a maximum of 6 months.

NEW SECTION. Section 5. Closure of shooting ranges -- limitations -- relocation cost. (1) A shooting range may not be prevented from operation by any state agency, unit of local government, or court unless the range presents a clear and provable safety hazard to an adjacent population and fails to meet the minimum range safety standards established by the national rifle association of America:

(2) -- If the shooting range has been in operation longer than the adjacent jeopardized population has been established, the agency responsible for issuing the order for closure shall pay the entire cost of relocating the shooting range to a reasonably similar and suitable facility that is a similar distance from the population served by the shooting range. EXCEPT AS PROVIDED IN SUBSECTION (2), AN ESTABLISHED SHOOTING RANGE MAY NOT BE PREVENTED FROM OPERATION BY ANY STATE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT UNLESS THE RANGE PRESENTS A CLEAR AND PROVABLE SAFETY HAZARD TO THE ADJACENT POPULATION AND ALSO FAILS TO MEET THE MINIMUM RANGE SAFETY STANDARDS ESTABLISHED BY THE FISH AND GAME COMMISSION.

(2) (A) IF A PRESSING PUBLIC NEED EXISTS BECAUSE OF INCOMPATIBILITY WITH NEARBY POPULATION OR NEARBY LAND USE, AN ESTABLISHED SHOOTING RANGE MAY BE RELOCATED BY AN AGENCY

OF STATE GOVERNMENT, A UNIT OF LOCAL GOVERNMENT, OR A COURT, BUT ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) PRESSING PUBLIC NEED IS DOCUMENTED THROUGH HEARINGS, TESTIMONY, AND A CLEAR AND PRECISE STATEMENT OF SUCH NEED BY THE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT INVOLVED;

(II) A SUITABLE ALTERNATIVE SITE FOR THE RANGE IS LOCATED AND OBTAINED BY THE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT INVOLVED;

(III) THE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT ORDERING RELOCATION PAYS THE ENTIRE COST OF RELOCATING THE RANGE, INCLUDING REPLACEMENT OF IMPROVEMENTS, TO A REASONABLY SUITABLE AND REASONABLY SIMILAR FACILITY AND TO A LOCATION THAT IS A SIMILAR DISTANCE FROM THE POPULATIONS SERVED BY THE ORIGINAL RANGE; AND

(IV) THE MAXIMUM AMOUNT OF TIME THAT A RANGE MAY BE OUT OF OPERATION BECAUSE OF SUCH RELOCATION IS 6 MONTHS.

(B) UPON FINAL RELOCATION OF A RANGE PURSUANT TO THIS SECTION, THE RANGE OPERATORS SHALL RELINQUISH THEIR PROPERTY INTEREST IN THE PREVIOUS LOCATION IN FAVOR OF THE RELOCATING AGENCY AND MUST BE GRANTED BY THE RELOCATING AGENCY A PROPERTY INTEREST IN THE NEW LOCATION THAT IS SIMILAR TO THAT ENJOYED BY THE RANGE OPERATORS IN THE VACATED LOCATION.

(3) (A) IF A SHOOTING RANGE PRESENTS A CLEAR AND PROVABLE SAFETY HAZARD TO THE ADJACENT POPULATION AND IF THE

RANGE FAILS TO MEET THE MINIMUM RANGE SAFETY STANDARDS
ESTABLISHED BY THE FISH AND GAME COMMISSION, THE RANGE MAY
BE SUSPENDED FROM OPERATION IF:

(I) REASONABLE NOTICE AND AN OPPORTUNITY TO RESPOND
AND BE HEARD IS AFFORDED TO THE RANGE OPERATORS; AND

(II) REASONABLE OPPORTUNITY IS AFFORDED TO THE RANGE
OPERATORS TO CORRECT SAFETY DEFECTS AND CAUSE THE RANGE TO
MEET THE MINIMUM RANGE SAFETY STANDARDS OF THE FISH AND GAME
COMMISSION.

(B) IF A SHOOTING RANGE IS SUSPENDED FROM OPERATION
FOR REASON OF SAFETY DEFECTS AND IF THE RANGE OPERATORS ARE
ABLE TO OBTAIN A CURRENT CERTIFICATE OF COMPLIANCE FROM THE
FISH AND GAME COMMISSION, ANY ORDER OF AN AGENCY, UNIT OF
LOCAL GOVERNMENT, OR COURT TO SUSPEND RANGE OPERATION IS
VACATED.

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

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

(b) The ordinance may not apply to lead, copper, or

brass deposits resulting from shooting activities at a
shooting range.

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

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

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

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

(a) normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or

(b) activities at a shooting range."

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

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

- 1 (a) quarreling, challenging to fight, or fighting;
- 2 (b) making loud or unusual noises;
- 3 (c) using threatening, profane, or abusive language;
- 4 (d) discharging firearms except at a shooting range;
- 5 (e) rendering vehicular or pedestrian traffic
- 6 impassable;
- 7 (f) rendering the free ingress or egress to public or
- 8 private places impassable;
- 9 (g) disturbing or disrupting any lawful assembly or
- 10 public meeting;
- 11 (h) transmitting a false report or warning of a fire,
- 12 impending explosion, or other catastrophe in such a place
- 13 that its occurrence would endanger human life; or
- 14 (i) creating a hazardous or physically offensive
- 15 condition by any act that serves no legitimate purpose.

16 (2) A person convicted of the offense of disorderly
 17 conduct shall be fined not to exceed \$100 or be imprisoned
 18 in the county jail for a term not to exceed 10 days, or
 19 both."

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

21 "45-8-111. Public nuisance. (1) "Public nuisance"
 22 means:

- 23 (a) a condition which endangers safety or health, is
- 24 offensive to the senses, or obstructs the free use of
- 25 property so as to interfere with the comfortable enjoyment

1 of life or property by an entire community or neighborhood
 2 or by any considerable number of persons;

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

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

8 (2) A person commits the offense of maintaining a
 9 public nuisance if he knowingly creates, conducts, or
 10 maintains a public nuisance.

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

16 (4) No agricultural or farming operation, place,
 17 establishment, or facility or any of its appurtenances or
 18 the operation thereof is or becomes a public nuisance
 19 because of the normal operation thereof as a result of
 20 changed residential or commercial conditions in or around
 21 its locality if the agricultural or farming operation,
 22 place, establishment, or facility has been in operation
 23 longer than the complaining resident has been in possession
 24 or commercial establishment has been in operation.

25 (5) Noises resulting from the shooting activities at a

1 shooting range are not considered a public nuisance.

2 ~~†5†~~(6) A person convicted of maintaining a public
3 nuisance shall be fined not to exceed \$500 or imprisoned in
4 the county jail for a term not to exceed 6 months, or both.
5 Each day of such conduct constitutes a separate offense."

6 **Section 10.** Section 76-2-206, MCA, is amended to read:

7 "76-2-206. Interim zoning map or regulation. (1) If a
8 county is conducting or in good faith intends to conduct
9 studies within a reasonable time or has held or is holding a
10 hearing for the purpose of considering a master plan or
11 zoning regulations or an amendment, extension, or addition
12 to either pursuant to this part, the board of county
13 commissioners in order to promote the public health, safety,
14 morals, and general welfare may adopt as an emergency
15 measure a temporary interim zoning map or temporary interim
16 zoning regulation, the purpose of which shall be to classify
17 and regulate uses and related matters as constitutes the
18 emergency.

19 (2) Such Except as provided in [section 4], such
20 interim resolution shall be limited to 1 year from the date
21 it becomes effective. The board of county commissioners may
22 extend such interim resolution for 1 year, but not more than
23 one such extension may be made."

24 NEW SECTION. Section 11. Rulemaking authority. The
25 fish-and-game-commission-may-adopt-rules-in-accordance-with

1 ~~{sections--17--27--and--5}--for--the--relocation-of-shooting~~
2 ~~ranges--The-rules-must--include--reasonable--provisions--for~~
3 ~~notice--and--hearing-~~ THE FISH AND GAME COMMISSION MAY ADOPT
4 RULES DESCRIBING THE ATTRIBUTES OF SHOOTING RANGES, SUCH AS
5 TYPES OF FACILITIES, FOR THE PURPOSE OF COMPARING ONE
6 SHOOTING RANGE WITH ANOTHER SHOOTING RANGE OR PROPOSED
7 SHOOTING RANGE. The commission may adopt shooting safety
8 guidelines and minimum safety standards for shooting ranges.
9 ~~The-minimum-safety-standards-may--not--be--more--restrictive~~
10 ~~than--the--minimum--range--safety--standards--adopted-by-the~~
11 ~~national-rifle-association-of-America-~~

12 NEW SECTION. Section 12. Applicability. [This act]
13 applies to shooting ranges in operation on or after [the
14 effective date of this act].

15 NEW SECTION. Section 13. Severability. If a part of
16 [this act] is invalid, all valid parts that are severable
17 from the invalid part remain in effect. If a part of [this
18 act] is invalid in one or more of its applications, the part
19 remains in effect in all valid applications that are
20 severable from the invalid applications.

21 NEW SECTION. Section 14. Effective date. [This act]
22 is effective July 1, 1989.

-End-

1 HOUSE BILL NO. 244

2 INTRODUCED BY SWIFT, CLARK, THOMAS, SEVERSON,

3 D. BROWN, SPAETH, NATHE, THOFT, SWYSGOOD

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING SHOOTING
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9 7-5-2110, 45-8-101, 45-8-111, AND 76-2-206, MCA; AND
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12 STATEMENT OF INTENT

13 House Bill 244 calls for shooting safety guidelines and
14 minimum safety standards for shooting ranges. Guidelines
15 are intended to be advisory only. Standards are intended to
16 be obligatory.

17 The minimum safety standards may not be more
18 restrictive than the minimum range safety standards adopted
19 by the national rifle association of America.

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

22 NEW SECTION. **Section 1.** Policy. It is the policy of
23 the state of Montana to provide for the health, safety, and
24 welfare of the citizens of the state by promoting the safety
25 and enjoyment of the shooting sports among the citizens of

1 the state and by protecting the locations of and investment
2 in shooting ranges for shotgun, archery, rifle, and pistol
3 shooting.

4 NEW SECTION. **Section 2.** Prohibitions. (1) Standards
5 adopted by any state agency or any unit of local government
6 to limit levels of noise that may occur in the outdoor
7 atmosphere may not apply to shooting ranges.

8 (2) Standards adopted by any state agency or any unit
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11 or prohibit the operation of any shooting range because of
12 lead, copper, or brass deposition resulting from shooting
13 activities.

14 NEW SECTION. **Section 3.** Planning -- effect on
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16 to authorize an ordinance, resolution, or rule that would
17 prevent or inhibit the operation of a shooting range.

18 NEW SECTION. **Section 4.** Zoning -- effect on shooting
19 ranges. (1) Except as provided in subsection (2), a planning
20 district master plan, recommendation, resolution, or rule
21 adopted pursuant to Title 76, chapter 2, may not prevent or
22 inhibit the operation of a shooting range.

23 (2) A zoning regulation or interim resolution adopted
24 pursuant to 76-2-206 may prevent or inhibit the operation of
25 a shooting range. The regulation or resolution may be

1 adopted only once and be effective for a maximum of 6
2 months.

3 NEW SECTION. Section 5. Closure of shooting ranges --
4 limitations -- relocation cost. (1) A shooting range may not
5 be prevented from operation by any state agency, unit of
6 local government, or court unless the range presents a clear
7 and provable safety hazard to an adjacent population and
8 fails to meet the minimum range safety standards established
9 by the national rifle association of America.

10 (2) If the shooting range has been in operation longer
11 than the adjacent jeopardized population has been
12 established, the agency responsible for issuing the order
13 for closure shall pay the entire cost of relocating the
14 shooting range to a reasonably similar and suitable facility
15 that is a similar distance from the population served by the
16 shooting range. EXCEPT AS PROVIDED IN SUBSECTION (2), AN
17 ESTABLISHED SHOOTING RANGE MAY NOT BE PREVENTED FROM
18 OPERATION BY ANY STATE AGENCY, UNIT OF LOCAL GOVERNMENT, OR
19 COURT UNLESS THE RANGE PRESENTS A CLEAR AND PROVABLE SAFETY
20 HAZARD TO THE ADJACENT POPULATION AND ALSO FAILS TO MEET THE
21 MINIMUM RANGE SAFETY STANDARDS ESTABLISHED BY THE FISH AND
22 GAME COMMISSION.

23 (2) (A) IF A PRESSING PUBLIC NEED EXISTS BECAUSE OF
24 INCOMPATIBILITY WITH NEARBY POPULATION OR NEARBY LAND USE,
25 AN ESTABLISHED SHOOTING RANGE MAY BE RELOCATED BY AN AGENCY

1 OF STATE GOVERNMENT, A UNIT OF LOCAL GOVERNMENT, OR A COURT,
2 BUT ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

3 (I) PRESSING PUBLIC NEED IS DOCUMENTED THROUGH
4 HEARINGS, TESTIMONY, AND A CLEAR AND PRECISE STATEMENT OF
5 SUCH NEED BY THE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT
6 INVOLVED;

7 (II) A SUITABLE ALTERNATIVE SITE FOR THE RANGE IS
8 LOCATED AND OBTAINED BY THE AGENCY, UNIT OF LOCAL
9 GOVERNMENT, OR COURT INVOLVED;

10 (III) THE AGENCY, UNIT OF LOCAL GOVERNMENT, OR COURT
11 ORDERING RELOCATION PAYS THE ENTIRE COST OF RELOCATING THE
12 RANGE, INCLUDING REPLACEMENT OF IMPROVEMENTS, TO A
13 REASONABLY SUITABLE AND REASONABLY SIMILAR FACILITY AND TO
14 A LOCATION THAT IS A SIMILAR DISTANCE FROM THE POPULATIONS
15 SERVED BY THE ORIGINAL RANGE; AND

16 (IV) THE MAXIMUM AMOUNT OF TIME THAT A RANGE MAY BE OUT
17 OF OPERATION BECAUSE OF SUCH RELOCATION IS 6 MONTHS.

18 (B) UPON FINAL RELOCATION OF A RANGE PURSUANT TO THIS
19 SECTION, THE RANGE OPERATORS SHALL RELINQUISH THEIR PROPERTY
20 INTEREST IN THE PREVIOUS LOCATION IN FAVOR OF THE RELOCATING
21 AGENCY AND MUST BE GRANTED BY THE RELOCATING AGENCY A
22 PROPERTY INTEREST IN THE NEW LOCATION THAT IS SIMILAR TO
23 THAT ENJOYED BY THE RANGE OPERATORS IN THE VACATED LOCATION.

24 (3) (A) IF A SHOOTING RANGE PRESENTS A CLEAR AND
25 PROVABLE SAFETY HAZARD TO THE ADJACENT POPULATION AND IF THE

RANGE FAILS TO MEET THE MINIMUM RANGE SAFETY STANDARDS
ESTABLISHED BY THE FISH AND GAME COMMISSION, THE RANGE MAY
BE SUSPENDED FROM OPERATION IF:

(I) REASONABLE NOTICE AND AN OPPORTUNITY TO RESPOND
AND BE HEARD IS AFFORDED TO THE RANGE OPERATORS; AND

(II) REASONABLE OPPORTUNITY IS AFFORDED TO THE RANGE
OPERATORS TO CORRECT SAFETY DEFECTS AND CAUSE THE RANGE TO
MEET THE MINIMUM RANGE SAFETY STANDARDS OF THE FISH AND GAME
COMMISSION.

(B) IF A SHOOTING RANGE IS SUSPENDED FROM OPERATION
FOR REASON OF SAFETY DEFECTS AND IF THE RANGE OPERATORS ARE
ABLE TO OBTAIN A CURRENT CERTIFICATE OF COMPLIANCE FROM THE
FISH AND GAME COMMISSION, ANY ORDER OF AN AGENCY, UNIT OF
LOCAL GOVERNMENT, OR COURT TO SUSPEND RANGE OPERATION IS
VACATED.

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

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

(b) The ordinance may not apply to lead, copper, or

brass deposits resulting from shooting activities at a
shooting range.

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

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

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

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

(a) normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during the course of its normal operations; or

(b) activities at a shooting range."

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

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

1 (a) quarreling, challenging to fight, or fighting;
 2 (b) making loud or unusual noises;
 3 (c) using threatening, profane, or abusive language;
 4 (d) discharging firearms except at a shooting range;
 5 (e) rendering vehicular or pedestrian traffic
 6 impassable;
 7 (f) rendering the free ingress or egress to public or
 8 private places impassable;
 9 (g) disturbing or disrupting any lawful assembly or
 10 public meeting;
 11 (h) transmitting a false report or warning of a fire,
 12 impending explosion, or other catastrophe in such a place
 13 that its occurrence would endanger human life; or
 14 (i) creating a hazardous or physically offensive
 15 condition by any act that serves no legitimate purpose.
 16 (2) A person convicted of the offense of disorderly
 17 conduct shall be fined not to exceed \$100 or be imprisoned
 18 in the county jail for a term not to exceed 10 days, or
 19 both."
 20 **Section 9.** Section 45-8-111, MCA, is amended to read:
 21 "45-8-111. Public nuisance. (1) "Public nuisance"
 22 means:
 23 (a) a condition which endangers safety or health, is
 24 offensive to the senses, or obstructs the free use of
 25 property so as to interfere with the comfortable enjoyment

1 of life or property by an entire community or neighborhood
 2 or by any considerable number of persons;
 3 (b) any premises where persons gather for the purpose
 4 of engaging in unlawful conduct; or
 5 (c) a condition which renders dangerous for passage
 6 any public highway or right-of-way or waters used by the
 7 public.
 8 (2) A person commits the offense of maintaining a
 9 public nuisance if he knowingly creates, conducts, or
 10 maintains a public nuisance.
 11 (3) Any act which affects an entire community or
 12 neighborhood or any considerable number of persons (as
 13 specified in subsection (1)(a)) is no less a nuisance
 14 because the extent of the annoyance or damage inflicted upon
 15 individuals is unequal.
 16 (4) No agricultural or farming operation, place,
 17 establishment, or facility or any of its appurtenances or
 18 the operation thereof is or becomes a public nuisance
 19 because of the normal operation thereof as a result of
 20 changed residential or commercial conditions in or around
 21 its locality if the agricultural or farming operation,
 22 place, establishment, or facility has been in operation
 23 longer than the complaining resident has been in possession
 24 or commercial establishment has been in operation.
 25 (5) Noises resulting from the shooting activities at a

1 shooting range are not considered a public nuisance.

2 ~~{5}~~(6) A person convicted of maintaining a public
3 nuisance shall be fined not to exceed \$500 or imprisoned in
4 the county jail for a term not to exceed 6 months, or both.
5 Each day of such conduct constitutes a separate offense."

6 **Section 10.** Section 76-2-206, MCA, is amended to read:

7 "76-2-206. Interim zoning map or regulation. (1) If a
8 county is conducting or in good faith intends to conduct
9 studies within a reasonable time or has held or is holding a
10 hearing for the purpose of considering a master plan or
11 zoning regulations or an amendment, extension, or addition
12 to either pursuant to this part, the board of county
13 commissioners in order to promote the public health, safety,
14 morals, and general welfare may adopt as an emergency
15 measure a temporary interim zoning map or temporary interim
16 zoning regulation, the purpose of which shall be to classify
17 and regulate uses and related matters as constitutes the
18 emergency.

19 (2) Such Except as provided in [section 4], such
20 interim resolution shall be limited to 1 year from the date
21 it becomes effective. The board of county commissioners may
22 extend such interim resolution for 1 year, but not more than
23 one such extension may be made."

24 **NEW SECTION. Section 11.** Rulemaking authority. The
25 ~~fish-and-game-commission-may-adopt-rules-in-accordance-with~~

1 ~~{sections--1,--2,--and--5}--for--the--relocation-of-shooting~~
2 ~~ranges--The-rules-must--include--reasonable--provisions--for~~
3 ~~notice--and--hearing-~~ THE FISH AND GAME COMMISSION MAY ADOPT
4 RULES DESCRIBING THE ATTRIBUTES OF SHOOTING RANGES, SUCH AS
5 TYPES OF FACILITIES, FOR THE PURPOSE OF COMPARING ONE
6 SHOOTING RANGE WITH ANOTHER SHOOTING RANGE OR PROPOSED
7 SHOOTING RANGE. The commission may adopt shooting safety
8 guidelines and minimum safety standards for shooting ranges.
9 ~~The-minimum-safety-standards-may-not-be-more-restrictive~~
10 ~~than--the--minimum--range--safety--standards--adopted-by-the~~
11 ~~national-rifle-association-of-America-~~

12 **NEW SECTION. Section 12.** Applicability. [This act]
13 applies to shooting ranges in operation on or after [the
14 effective date of this act].

15 **NEW SECTION. Section 13.** Severability. If a part of
16 [this act] is invalid, all valid parts that are severable
17 from the invalid part remain in effect. If a part of [this
18 act] is invalid in one or more of its applications, the part
19 remains in effect in all valid applications that are
20 severable from the invalid applications.

21 **NEW SECTION. Section 14.** Effective date. [This act]
22 is effective July 1, 1989.

-End-