

Minnesota's Shooting Range Protection Act

FAQ Sheet, House Research Bill Summary, and 2005 Chapter 105

(Revised 09-21-2005)

In May 2005, Minnesota Governor Tim Pawlenty signed into law the Shooting Range Protection Act. It became effective on May 28, 2005, becoming Minnesota Statutes, Chapter 87A.

Since the law's passage, a number of questions regarding what the law does and does not address or impact have been asked. This page is intended to help answer and clarify those questions.

What is the intent of Chapter 87A?

To provide shooting ranges with the ability to maintain their operating capacity, if local opposition to an existing shooting range facility arises.

What types of facilities are intended to be covered or protected in Chapter 87A?

Firearms and archery shooting facilities, to include licensed shooting preserves.

Related to those types of facilities, what are the key elements that this law addresses?

That shooting ranges are safely operating, meaning they keep all projectiles (i.e., bullets, pellets and arrows) within their facility boundaries, they keep sound levels generated on the range to an acceptable level, and they operate within a reasonable set of hours. If these are precepts are violated, the range has the opportunity to correct their problems within an acceptable time frame.

Does Chapter 87A take precedence over existing local ordinances, rules, regulations, or operating restrictions for shooting ranges or preserves?

No. Any pre-existing conditional use permit, special use permit, operating hours restrictions, covenants or other performance related requirements set in existence by local units of government with legal jurisdiction over a shooting range are to be maintained. In the meantime, if no pre-existing operating hours are in place for a range, they are now, based on the State's Sound Rule (Minnesota Rules, Chapter 7030).

Chapter 87A references "Performance Standards". What are these?

Primarily, the Performance Standards refer to considerations that need to be taken to ensure the safe operation of a shooting range. The National Rifle Association (NRA) has produced a set of guidelines or recommendations for constructing and operating various shooting ranges. These are contained in the

1999 edition of The Range Source Book: A Guide to Planning and Construction. The NRA uses this document as a reference and teaching tool when they conduct their Range Development and Operations classes throughout the United States. Chapter 87A establishes that, until the DNR adopts permanent performance standards through formal rulemaking processes, this document will be an interim set of standards for safe range operations. This source book is available online from the NRA headquarters at www.nrahq.org/shootingrange/sourcebook.asp.

When will final Performance Standards be established by the DNR?

DNR has been given the responsibility to formally adopt Shooting Range Performance Standards, using the expedited rulemaking process, as defined in State statute.

These Rules will take into account the interim performance standards, and any additional information that is relevant. Chapter 87A.

Will all shooting ranges need to be built to the same level or degree?

No. The performance standards are recommendations, and are site specific. In urban or suburban settings, more people can be affected by an operating shooting range. In these settings, where projectile containment is absolutely necessary, all safeguards necessary must be taken to ensure that **all** bullets shot on the range stay on the range property. This concept should be also used as the basis for any range that is built, but the number of required safeguards installed will likely be fewer in a more rural setting. Sound containment must also be installed that will make sure the range is in compliance with Chapter 87A. These will also vary, based on the level of local population density.

The Game and Fish Laws of Minnesota restrict the discharge of a firearm to 500 or more feet away from a residence while hunting, unless permission is granted to be closer. Does this standard apply under Chapter 87A?

No. Shooting ranges and preserves are allowed to have bows and firearms discharged within their boundaries, provided that all projectiles remain on the shooting range. The difference here is that the Game and Fish laws refer only to hunting situations on private lands.

Chapter 87A references a range operation becoming a nonconforming use. What does this mean?

Local zoning definitions governing land uses are subject to change, due to land use changes such as residential development. If local zoning changes take place that make a shooting range a nonconforming use where it had previously been allowed to operate, the range operator has the ability to improve the safety and sound conditions of the range, in order to maintain and continue the operation of the range.

Should shooting range operators be concerned that a law pertaining to shooting ranges is now in effect?

No, not at all. Shooting range operators in Minnesota are allowed to maintain the operation of their facilities, provided they are operated safely, conform to sound level standards, and maintain reasonable operating hours. Most shooting ranges are set in relatively rural and undeveloped land areas. Nothing in Chapter 87A will negatively affect these ranges. Instead, when other development occurs on adjacent land, the range will be given the opportunity to continue operating, and not be subject to closure due to that change.

If neighbors do live near a shooting range, there is now a defined process in place that will allow the range operators to determine if a problem does exist, and allow them to take steps to address those concerns. What Chapter 87A does is help the shooting range operation be a “good neighbor”, taking into consideration the safety, sound, and operating hours in effect on a given shooting range.

What does the “mitigation area” in Section 87A.04 intended to address?

Sound or noise generated by a shooting range, and its impact on neighboring land use. By their very nature of use, shooting ranges generate sound. If a range has development (usually pertaining to one or more residence) within 750 feet of its perimeter, that was planned, approved and/or built before October 1, 2005, it is the range operator’s responsibility to take steps to ensure that the sound levels reaching neighboring land be within the sound standard limits defined in Chapter 87A. After October 1, 2005, any new development within 750 feet of a shooting range’s perimeter will be responsible to pre-plan and install its own sound mitigating devices to keep a range compliant with the sound standards.

In the event that the sound coming off a shooting range is bothersome to a neighboring residence, ideally the range operators and neighbor would be willing to work together, both before and after October 1, 2005, to minimize the sound levels arriving at the neighboring property. This can be achieved through a variety of means, including installing one or more sound berms, walls to deflect sound, one or more firing line enclosures, shooting tubes, and vegetative barriers that can further absorb and/or deflect sound.

What is a brief explanation of the Noise Standard referenced in Chapter 87A?

The noise level referenced in the shooting range law refers to measuring the sound level over an hour’s time at a neighboring property that is receiving the sound generated at a range, to determine a “steady state” level of sound, which is referred to as the Leq(h). This steady state cannot exceed 63 decibels (dBA), and will include the sound generated by the range, along with all other sounds generated and recorded at that [sound] receiving location. Collectively, this will include gunshots, and all other ambient noise. Specific sound measurement methodology, including procedure, equipment, etc., is defined in Minnesota Rules, Section 7300.0060.

What is an obvious activity that can be defined as a “clear and present danger” at a shooting range?

As stated before, one of the main objectives of the Shooting Range Protection Act is to make sure all projectiles shot at a range stay on the property of the range. Any arrows, pellets, or bullets that leave a range’s property could cause harm or injury to others not on the shooting range. This would at least constitute a trespass, and should not, under any circumstances, knowingly be allowed to take place. Whether or not a correctable danger exists could be an issue to be decided in a court of law.

If one portion of a shooting range is deemed to be a safety hazard, does an entire shooting range have to close?

Not unless a court finds that an entire range would pose a safety hazard, and can’t be remedially improved or repaired.

House Research Bill Summary

Analyst: John Helland, 651-296-5039

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Section

- 1 1 **Defines.** Defines terms for the bill.
- 2 2 **Performance standards.** Requires the Commissioner of Natural Resources to adopt shooting range performance standards, under expedited rulemaking, for the safe use and operation of range preserves. Allows interim shooting range performance standards of the National Rifle Association to be used until the DNR adopts permanent ones.
- 3 3 **Compliant ranges.** Allows a shooting range in compliance with the shooting range performance standards to maintain certain normal procedures, including daily firearm discharges between the hours of 7:00 a.m. and 10:00 p.m. Permits a shooting range that becomes a nonconforming use to continue shooting activities within their boundaries as long as conducted with noise and shooting range performance standards.
- 4 4 **Mitigation areas.** Disallows any development or structure approved after October 1, 2005 within 750 feet of the exterior property line of a shooting range if the development would cause the range to fall out of state standards compliance. Allows a development after the above date if the person requesting approval provides necessary mitigation to permit the shooting range to remain in compliance with state standards.
- 5 5 **Noise standards.** Requires certain noise standards for the operation of a shooting range.
- 6 6 **Nuisance actions.** Removes any nuisance action for an operator of a shooting range in compliance with noise and performance standards, except for personal physical injury or property damage.
- 7 7 **Range closure.** Provides that a shooting range operation in compliance with this act and state standards may not be permanently closed unless a range activity is a clear and immediate safety hazard. Provides a rebuttable presumption in any action that the range or activity is not a safety hazard, and allows proven mitigation for the range to correct a safety hazard.
- 8 8 **Subds. 2-3.** Allows a preliminary injunction by a court involving a presumed safety hazard, but a permanent injunction is allowed only against a specific activity or person unless the court finds the entire shooting range poses a safety hazard.
- 8 8 **Applicable law.** Allows federal law enforcement for shooting ranges, and state and local laws when consistent with this act. Limits the permanent closure of ranges similar to section 7.
- 9 9 **Effective date.** Makes the bill effective the day following final enactment.

Minnesota Session Laws - 2005

NOTE: This document DOES NOT represent a copy of the official publication of 2005 Session Laws. The final 2005 Session Laws will be available on the Revisor of Statutes website in early October 2005.

CHAPTER 105-S.F.No. 1908

An act relating to natural resources; establishing the Shooting Range Protection Act; requiring expedited rulemaking; proposing coding for new law as Minnesota Statutes, chapter 87A.

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

Section 1. [87A.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 87A.01 to 87A.08.

Subd. 2. [PERSON.] "Person" means an individual, association, proprietorship, partnership, corporation, club, political subdivision, or other legal entity.

Subd. 3. [SHOOTING RANGE OR RANGE.] "Shooting range" or "range" means an area or facility designated or operated primarily for the use of firearms, as defined in section 97A.015, subdivision 19, or archery, and includes shooting preserves as described in section 97A.115 or any other Minnesota law.

Subd. 4. [SHOOTING RANGE PERFORMANCE STANDARDS.] "Shooting range performance standards" means those rules adopted by the commissioner of natural resources under section 87A.02 for the safe operation of shooting ranges.

Subd. 5. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a home rule charter or statutory city, county, town, or other political subdivision.

Sec. 2. [87A.02] [SHOOTING RANGE PERFORMANCE STANDARDS.]

Subdivision 1. [ADOPTION OF STANDARDS; REVIEW.]

(a) The commissioner of natural resources must develop and adopt shooting range performance standards, according to the expedited rulemaking process under section 14.389. The shooting range performance standards must provide for compliance with applicable noise standards under section 87A.05 and for the safe use of shooting ranges within their boundaries, including the containment of projectiles.

(b) The shooting range performance standards must provide for the operation of shooting preserves within the boundaries of the preserve, including an exemption from any discharge distance imitations generally applicable to hunting on other land, when the shooting preserve is in compliance with all other applicable laws and is in operation on or before the effective date of the performance standards adopted under this section or prior to the development of any structure that would cause the preserve to be out of compliance with the discharge distance.

(c) The commissioner must review the shooting range performance standards at least once every five years and revise them if necessary for the safe operation of shooting ranges.

(d) In the adoption of any amendments to the shooting range performance standards adopted under paragraph (a), the commissioner shall follow all notice and public hearing requirements for the regular rule adoption process under sections 14.001 to 14.28.

Subd. 2. [INTERIM STANDARDS.] Until the commissioner of natural resources adopts the shooting range performance standards under subdivision 1, paragraph (a), the November 1999 revised edition of the National Rifle Association's Range Source Book: A Guide to Planning and Construction shall serve as the interim shooting range performance standards, having the full effect of the shooting range performance standards for purposes of this chapter. The interim shooting range performance standards sunset and have no further effect under this chapter upon the effective date of the shooting range performance standards adopted under subdivision 1, paragraph (a).

Sec. 3. [87A.03] [COMPLIANT RANGES; AUTHORIZED ACTIVITIES.]

Subdivision 1. [AUTHORIZED ACTIVITIES.] A shooting range that operates in compliance with the shooting range performance standards must be permitted to do all of the following within its geographic boundaries, under the same or different ownership or occupancy, if done in accordance with shooting range performance standards:

(1) operate the range and conduct activities involving the discharge of firearms;

(2) expand or increase its membership or opportunities for public participation related to the primary activity as a shooting range;

(3) make those repairs or improvements desirable to meet or exceed requirements of shooting range performance standards;

(4) increase events and activities related to the primary activity as a shooting range;

(5) conduct shooting activities and discharge firearms daily between 7:00 a.m. and 10:00 p.m. A local unit of government with zoning jurisdiction over a shooting range may extend the hours of operation by the issuance of a special or conditional use permit; and

(6) acquire additional lands to be used for buffer zones or noise mitigation efforts or to otherwise comply with this chapter.

Subd. 2. [NONCONFORMING USE.] A shooting range that is a nonconforming use shall be allowed to conduct additional shooting activities within the range's lawful property boundaries as of the date the range became a nonconforming use, provided the shooting range remains in compliance with noise and shooting range performance standards under this chapter.

Subd. 3. [COMPLIANCE WITH OTHER LAW.] Nothing in this section exempts any newly constructed or remodeled building on a shooting range from compliance with fire safety, handicapped accessibility, elevator safety, bleacher safety, or other provisions of the State Building Code that have mandatory statewide application.

Sec. 4. [87A.04] [MITIGATION AREA.]

(a) Except for those uses, developments, and structures in existence or for which approval has been granted by October 1, 2005, or as provided in paragraph (b), no change in use, new development, or construction of a structure shall be approved for any portion of property within 750 feet of the perimeter property line of an outdoor shooting range if the change in use, development, or construction would cause an outdoor

shooting range in compliance with this chapter to become out of compliance.

(b) A change in use, new development, or construction of a structure subject to this section may be approved if the person seeking the approval or, at the discretion of the governing body, the approving authority agrees to provide any mitigation required to keep the range in compliance with this chapter. The person requesting an approval subject to this section is responsible for providing documentation if no mitigation is required under this section. Failure to provide the documentation or any mitigation required under this section exempts the range from being found out of compliance with the shooting range performance and noise standards of this chapter with regard to the property responsible for the mitigation if the failure to provide the documentation or required mitigation is the sole basis for the range being out of compliance with the shooting range performance standards. Any action brought by the owner of the property against the range is subject to section 87A.06. With the permission of the range operator, any mitigation required under this section may be provided on the range property.

Sec. 5. [87A.05] [NOISE STANDARDS.]

Allowable noise levels for the operation of a shooting range are the levels determined by replacing the steady state noise L10 and L50 state standards for each period of time within each noise area's classification with a single Leq(h) standard for impulsive noise that is two dBA lower than that of the L10 level for steady state noise. The noise level shall be measured outside of the range property at the location of the receiver's activity according to Minnesota Rules, parts 7030.0010 to 7030.0080, as in effect on the effective date of this act. For purposes of this section, "Leq(h)" means the energy level that is equivalent to a steady state level that contains the same amount of sound energy as the time varying sound level for a 60-minute time period.

Sec. 6. [87A.06] [NUISANCE ACTIONS; COMPLIANCE WITH SHOOTING RANGE PERFORMANCE STANDARDS.]

A person who owns, operates, or uses a shooting range in this state that is in compliance with shooting range performance standards is not subject to any nuisance action for damages or equitable relief based on noise or other matters regulated by the shooting range performance standards. This section does not prohibit other actions.

Sec. 7. [87A.07] [CLOSURE OF SHOOTING RANGES.]

Subdivision 1. [CLOSURE.] Except as otherwise provided in sections 87A.01 to 87A.08, a shooting range that is in compliance with shooting range performance standards and the requirements of sections 87A.01 to 87A.08 shall not be forced to permanently close or permanently cease any activity related to the primary use of the shooting range unless the range or activity is found to be a clear and immediate safety hazard by a court of competent jurisdiction. In any action brought to compel the permanent closure of any range in compliance with shooting range performance standards and this chapter, or to permanently cease any activity related to the primary use of the shooting range, there is a rebuttable presumption that the range or activity is not a clear and immediate safety hazard. If the shooting range provides evidence that the cause of a proven safety hazard can be mitigated so as to eliminate

the safety hazard, the court shall not order the permanent closure of the range, or permanent ceasing of the activity found to be a clear and immediate safety hazard, unless the range operator fails to implement the necessary mitigation to remove the safety hazard by the date that is determined reasonable by the court.

Subd. 2. [PRELIMINARY INJUNCTIONS.] Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a probable clear and immediate safety hazard, or against any individual determined to be the probable cause of an alleged clear and immediate safety hazard, pending the final determination of the existence of the safety hazard.

Subd. 3. [PERMANENT INJUNCTIONS.] A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also pose a safety hazard under this section.

Sec. 8. [87A.08] [APPLICABILITY OF OTHER LAWS.]

Subdivision 1. [PUBLIC SAFETY LAWS; ZONING.]

(a) Nothing in this chapter prohibits enforcement of any federal law. To the extent consistent with this chapter, other state laws regarding the health, safety, and welfare of the public may be enforced. To the extent consistent with this chapter, a local unit of government with zoning authority jurisdiction over a shooting range may enforce its applicable ordinances and permits. Nothing in this chapter shall supersede more restrictive regulation of days and hours of operation imposed by the terms and conditions of ordinances and permits that are in effect on the effective date of this section.

(b) If the operator of the shooting range shows evidence that the range can be brought into compliance with the applicable state law, local ordinance, or permit, the range may not be permanently closed unless the range operator fails to bring the range into compliance with the applicable law, ordinance, or permit under this section by the date that the court determines reasonable. Nothing in this section prohibits a court from granting a preliminary injunction against any activity determined to be a violation of a law, ordinance, or permit under this section or against any individual determined to be causing an alleged violation, pending the final determination of the existence of the violation.

Subd. 2. [PERMANENT INJUNCTIONS.] A court may grant a permanent injunction only against a particular activity or person instead of permanently closing the range unless the court finds that the remaining operations also create a violation under this section.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment.

Presented to the governor May 24, 2005

Signed by the governor May 27, 2005, 4:50 p.m.