

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2034**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Conservation and Natural Resources April 9, 2008 with recommendation that House Committee Substitute for House Bill No. 2034 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4708L.06C

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**AN ACT**

To repeal section 537.294, RSMo, and to enact in lieu thereof two new sections relating to firearm ranges and hunting preserves.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 537.294, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 537.294 and 537.355, to read as follows:

537.294. 1. As used in this section, the [term] **following terms shall mean:**

(1) "Firearm range" [means] , any rifle, pistol, silhouette, skeet, trap, blackpowder or other similar range in this state used for discharging firearms in a sporting event or for practice or instruction in the use of a firearm, or for the testing of a firearm;

(2) "**Hunting preserve**", any hunting preserve or licensed shooting area operating under a permit granted by the Missouri department of conservation.

2. All owners **and authorized users** of firearm ranges in existence on August 13, 1988, shall be immune from any criminal **and civil** liability arising out of or as a consequence of noise or sound emission resulting from the normal use of any such firearm range. Owners of such firearm ranges shall not be subject to any **civil action in tort or subject to any action** for public or private nuisance or trespass and no court in this state shall enjoin the use or operation of such firearm ranges on the basis of noise or sound emission resulting from the normal use of any such firearm range. The term "normal use" of a firearm range, as used in this subsection, means the average level of use of the firearm range during the twelve months preceding August 13, 1988.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           3. All owners **and authorized users** of firearms ranges placed in operation **or that have**  
16 **expanded or modified their operation** after August 13, 1988, shall be immune from any  
17 criminal **and civil** liability and shall not be subject to any action for public or private nuisance  
18 or trespass arising out of or as a consequence of noise or sound emission resulting from the  
19 normal use of any such firearm range, if such firearm range conforms to any one of the following  
20 requirements:

21           (1) Any area from which any firearm may be properly discharged is at least one thousand  
22 yards from any occupied permanent dwelling on adjacent property **that was constructed prior**  
23 **to the beginning operation of the firearm range;**

24           (2) Any area from which any rifle or pistol may be properly discharged is enclosed by  
25 a permanent building or structure that absorbs or contains the sound energy escaping from the  
26 muzzle of firearms in use; [or]

27           (3) If the firearm range is situated on land otherwise subject to land use zoning, the  
28 firearm range is in compliance with the requirements of the zoning authority regarding the sound  
29 deflection or absorbent baffles, barriers, or other sound emission control requirements[.] ;

30           (4) **The firearm range begins operation prior to the construction of a permanent**  
31 **dwelling on adjacent property that is within one thousand yards of the firearm range; or**

32           (5) **The range is owned, leased, or operated by a constitutional department of the**  
33 **state of Missouri or by a political subdivision of the state that operates the range on**  
34 **property within the jurisdiction of such political subdivision.**

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36 **For purposes of subsections 3 and 4 of this section, "normal use" means that the average**  
37 **sound level for any continuous thirty-minute period during which the firearm range is in**  
38 **use does not exceed seventy-two decibels as measured from the boundary line of the**  
39 **property upon which the firearm range is located.**

40           4. All owners and authorized users of firearms ranges that begin operation after  
41 **August 28, 2008, and are within one thousand yards of a permanent occupied dwelling**  
42 **shall either:**

43           (1) **Contact the owner or owners of any occupied dwelling within one thousand**  
44 **yards of the firearm range in person and obtain a written waiver of liability from each**  
45 **owner; or**

46           (2) **Provide each owner or owners of any occupied dwelling within one thousand**  
47 **yards of the firearm range a written notice of intent. Notice of intent to construct a firearm**  
48 **range shall be sent by certified or registered mail and shall be postmarked at least sixty**  
49 **days prior to the onset of construction of the firearm range. The receipt issued for such**  
50 **certified or registered mail shall constitute proof of compliance with the notice**

51 requirements of this subdivision. Such notice shall state the prospective firearm range  
52 owner's intent to construct the firearm range, provide the full text of this section, and  
53 contain a self-addressed stamped envelope with a reply letter and a copy of the reply letter  
54 that is addressed to the prospective owner of the firearm range. The reply letter shall state  
55 in large type that the owner or owners of an occupied permanent dwelling may retain their  
56 full legal rights to sue for public or private nuisance or trespass arising out of or as a  
57 consequence of noise or sound emission resulting from the normal use of the firearm range  
58 under this section only by checking a prominently displayed box on the reply letter  
59 containing the following: "Yes, I intend to retain all my legal rights under section 537.294,  
60 RSMo, with regard to the firearm range being constructed within one thousand yards of  
61 my occupied permanent dwelling.". The reply letters shall be notarized and the copy  
62 addressed to the prospective owner of the firearm range mailed by certified or registered  
63 mail within sixty days of the postmark of the notice letter. The receipt issued for such  
64 certified or registered mail shall constitute proof of compliance with the reply letter  
65 requirement of this subdivision. The deadline, certified or registered mail, and  
66 notarization requirements for the reply letters shall be prominently displayed on the notice  
67 and the reply letters.

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69 If the owner of the firearm range complies with the requirements of subdivision (1) or (2)  
70 of this subsection and the occupied permanent dwelling owner either gives a written waiver  
71 of liability or does not indicate that they intend to retain all his or her legal rights under  
72 this section on the reply letter, then the owner of the firearm range shall be immune from  
73 any criminal and civil liability and shall not be subject to any action for public or private  
74 nuisance or trespass arising out of or as a consequence of noise or sound emission resulting  
75 from the normal use of any such firearm range.

76 5. All owners and authorized users of existing hunting preserves or areas that are  
77 designated as hunting preserves after the effective date of this section shall be immune  
78 from any criminal and civil liability arising out of or as a consequence of noise or sound  
79 emission resulting from the normal use of any such hunting preserve. Owners or  
80 authorized users of such hunting preserves shall not be subject to any action for public or  
81 private nuisance or trespass, and no court in this state shall enjoin the use or operation of  
82 such hunting preserves on the basis of noise or sound emission resulting from normal use  
83 of any such hunting preserve.

84 6. Notwithstanding any other provision of law to the contrary, nothing in this  
85 section shall be construed to limit civil liability for compensatory damage arising from

86 **physical injury to another human, physical injury to tangible personal property, or**  
87 **physical injury to fixtures or structures placed on real property.**

**537.355. An owner of land who either directly or indirectly invites or permits**  
2 **without charge any person to use such property for hunting or fishing purposes or other**  
3 **recreational purpose, including but not limited to, any aircraft or ultralight vehicle activity,**  
4 **does not thereby:**

5 **(1) Confer upon such person the legal status of an invitee or licensee and owes to**  
6 **such person only the duty of care as is owed to a trespasser under the law;**

7 **(2) Without the failure to exercise just ordinary care, assume responsibility for or**  
8 **incur liability for any injury to persons or property caused by an act or omission of such**  
9 **persons while hunting or fishing or engaging in other recreational activities, such as**  
10 **operating aircraft or ultralight vehicles;**

11 **(3) Without the failure to exercise just ordinary care, assume responsibility for or**  
12 **incur liability for any injury to persons or property, wherever such persons or property**  
13 **are located, caused while hunting or fishing or engaging in other recreational activities,**  
14 **such as operating aircraft or ultralight vehicles.**

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