

Bill No. CS for SB 1156

Amendment No. 1 Barcode 765628

CHAMBER ACTION

Senate

House

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The Committee on Comprehensive Planning recommended the following amendment:

Senate Amendment (with title amendment)

On page 4, line 14, through page 5, line 15, delete those lines

and insert:

(4) SPORT SHOOTING AND TRAINING RANGE LIABILITY PROTECTION.--Notwithstanding any other provision of law, any private or public owner, operator, employee, agent, contractor, customer, or user of any sport shooting or training range located in this state, identified to the department by September 30, 2005, as set forth in paragraph (i) of subsection (7) shall have limited liability to this state or any agency of the state, special purpose district, or political subdivision of this state for any claim associated with the intentional or unintentional placement, deposition, or accumulation of projectiles in the environment on or under that sport shooting or training range or any other property over which the range has an easement, leasehold, or other

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1 legal right of use. For purposes of this subsection, a public
2 owner or operator means the state, a county, a municipal
3 corporation, a state university or college, or a school
4 district.

5 (5) PENDING AND FUTURE CLAIMS.--

6 (a) All claims from which private or public owners,
7 operators, employees, agents, contractors, customers, or users
8 of any sport shooting and training ranges are immunized under
9 this section which are pending in any court of this state or
10 before any administrative agency on January 1, 2004, shall be
11 withdrawn within 30 days after the effective date of this act
12 and failure to immediately withdraw such claim shall be a
13 violation of this act and shall be penalized in accordance
14 with subsection (6).

15 (b) No state agency, county, municipality, town,
16 special purpose district, or other political subdivision may
17 benefit financially or otherwise from any such action pending
18 on or after January 1, 2004, in which any judgement or other
19 legal action or recourse is or has been entered in favor of
20 the state, any of its agencies, or a county, municipality,
21 town, special purpose district, or other political subdivision
22 against any private or public owner, operator, employee,
23 agent, contractor, customer, or user of any sport shooting or
24 training range. The state, agency, county, municipality, town,
25 special purpose district or other political subdivision that
26 brought such action shall immediately pay all costs of
27 litigation and all reasonable attorney's fees, paralegal's
28 fees, and damages for all economic and other losses resulting
29 from the initiation of such claim for which this section
30 provides immunity.

31 (c) Any private or public owner, operator, employee,

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1 agent, contractor, customer, or user of any sport shooting or
2 training range injured as a result of a claim filed in
3 violation of this section shall have a civil cause of action
4 for damages, reasonable attorney's fees, and costs.

5 (6) PENALTIES.--Any official, employee, or other agent
6 of this state or its agencies, or of a county, municipality,
7 town, special purpose district, or other political subdivision
8 of this state, who, while acting in his or her official
9 capacity and within the scope of his or her employment or
10 office, willfully and knowingly brings or is a party to
11 bringing an action in violation of this section commits a
12 misdemeanor of the first degree, punishable as provided in s.
13 775.082 or s. 775.083.

14 (7) Duties.--

15 (a) The Department of Environmental Protection shall
16 develop a plan and procedures for the reasonable review,
17 contamination assessment, and cleanup of sport shooting and
18 training ranges if there is credible reason to believe that
19 the accumulation of projectiles on such ranges poses an
20 immediate threat to the environment or to human health. The
21 department shall give 60 days notice to the sport shooting or
22 training range owner, operator, tenant, or occupant of the
23 department's intent to enter the site for the purpose of a
24 contamination assessment.

25 (b) Principles of risk-based corrective action
26 pursuant to s. 376.30701 shall be applied to sport shooting or
27 training ranges.

28 (c) The department may enter a sport shooting or
29 training range and conduct an environmental cleanup of the
30 site under the following circumstances:

31 1. The department has proven by competent, substantial

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1 evidence through scientifically accepted documentation that
2 the effect of accumulation of lead projectiles at the sport
3 shooting or training range is in violation of laws and rules
4 and is causing an unreasonable risk of injury or death to
5 humans, or the environment;

6 2. The department has presented scientifically
7 accepted documentation of contamination at the sport shooting
8 or training range to the sport shooting and training range
9 owner, operator, tenant, or occupant;

10 3. The department has made a reasonable effort to
11 obtain permission from the sport shooting or training range
12 owner, operator, tenant, or occupant for entrance for the
13 purpose of environmental cleanup;

14 4. The department has given 120 days' notice to the
15 sport shooting or training range owner, operator, tenant, or
16 occupant of the department's intent to enter the site for the
17 purpose of an environmental cleanup; and

18 5. The sport shooting or training range owner,
19 operator, tenant, or occupant has given permission to the
20 department to conduct the environmental cleanup.

21 (d) In the event that the department has complied with
22 the requirements of subparagraphs 1-4 and been denied
23 permission to conduct the environmental cleanup, the
24 department may seek judicial intervention for the purpose of
25 fulfilling its duties.

26 (e) Should the department seek judicial intervention
27 as authorized in paragraph (d), the owner, operator, tenant,
28 or occupant shall have the opportunity to rebut the
29 department's claims.

30 (f) Should the department seek judicial intervention,
31 the prevailing party may recover related costs and fees from

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1 the other party or parties.

2 (g) Upon this act becoming law, the department shall
3 initially notify those sport shooting and training ranges
4 known to the department of the passage of this act and the
5 rights and obligations of range owners and operators under
6 this act.

7 (h) No later than October 1, 2004, the department
8 shall establish a range identification process to identify the
9 ownership and location of all sport shooting and training
10 ranges in the state. The department is authorized to develop
11 the guidelines necessary to implement the range identification
12 process. However, the process for developing the guidelines by
13 the department shall be strictly limited to the following
14 activities:

15 1. In establishing the identification process the
16 department shall make reasonable effort to notify the public
17 of the identification requirements which shall include
18 providing legal notice as provided in Chapter 50, Florida
19 Statutes.

20 2. Any costs associated with this identification
21 process shall be borne by the department.

22 3. The department shall develop an education program
23 to assist identified ranges and to promote the use of best
24 management practices that can be implemented to limit
25 environmental impacts associated with the operation of the
26 ranges.

27
28 Any owner of a sport shooting or training range must identify
29 themselves to the department in accordance with department
30 guidelines and provide at a minimum the name and legal address
31 of the owner and the address and legal description of the

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1 range. Owners of ranges in existence on or before October 1,
2 2004, must identify themselves to the department by September
3 30, 2005. Owners of ranges established after October 1, 2004,
4 must identify themselves to the department within 1 year of
5 the establishment of the ranges.

6 (i) Sport shooting or training ranges that have been
7 identified to the department by September 30, 2005, may not be
8 required to pay for the initial environmental cleanup,
9 whenever it occurs; the cost of the contamination assessment
10 and the initial environmental cleanup shall be borne by the
11 state. The cost of any subsequent cleanup will be done at the
12 expense of the owner, operator, tenant, or occupant of the
13 range. The cost of environmental cleanups conducted at ranges
14 that have identified themselves to the department after
15 September 30, 2005, shall be borne by the owner, operator,
16 tenant or occupant of the range. The liability protection in
17 subsection (4) terminates after the initial environmental
18 cleanup is completed by the department.

19 (j) A county, municipality, town, special purpose
20 district, other political subdivision, or any other government
21 entity in the state may not initiate any site investigation or
22 any other activity related to environmental issues or cleanup
23 of sport shooting or training ranges unless such activity is
24 specifically permitted by the Department of Environmental
25 Protection and is under the direct supervision of the
26 department.

27 (k) The department may use funds from the Water
28 Quality Assurance Trust Fund for expenses associated with this
29 act.

30 (l) This section does not relieve the state of its
31 duty to absorb the costs of environmental cleanups of sport

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1 shooting or training ranges under other circumstances.
2 (m) The department may not initiate a range cleanup
3 unless funding is available to complete the cleanup project.
4 The department shall work with ranges to develop, with
5 reasonable certainty, estimates of the time necessary to clean
6 up each range and shall strictly adhere to a reasonable time
7 frame, consistent with the principles of risk-based corrective
8 action. Once a cleanup has begun, the department shall
9 proceed, without delay until completion utilizing the most
10 fiscally responsible approach.

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12 (Redesignate subsequent subsections.)

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 1, lines 12-17, delete those lines

18

19 and insert:

20 after a certain date; providing that any legal
21 action found in favor of the state may not
22 benefit the state; requiring the state to pay
23 all costs of litigation, attorney's fees,
24 damages, and economic loss for certain legal
25 actions found in its favor; requiring the
26 Department of Environmental Protection to
27 develop a plan to conduct review and cleanup;
28 requiring the department to conduct an
29 environmental cleanup under certain
30 circumstances; providing duties and
31 restrictions on the department and ranges;

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1 creating an identification process; authorizing
2 the department to develop guidelines;
3 authorizing the department to use funds from
4 the Water Quality Assurance Trust Fund for
5 expenses associated with the act; providing
6 that the department may require water
7 management districts to provide funds for
8 funding cleanups; providing criminal penalties;
9 specifying preemption by the state; providing
10 for construction; providing an effective date.

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