

1                                   A bill to be entitled  
2           An act relating to sport shooting and training  
3           range environmental liability protection;  
4           creating s. 790.333, F.S.; providing  
5           legislative findings and intent; providing  
6           definitions; directing the Department of  
7           Environmental Protection to provide information  
8           concerning best management practices to ranges  
9           and assist in implementation efforts; requiring  
10          ranges to implement best management practices;  
11          permitting the department to assist in  
12          contamination assessments at ranges; allowing  
13          the department to perform contamination  
14          assessments under certain circumstances;  
15          providing for the application of risk-based  
16          cleanup principles; specifying immunity from  
17          liability for certain persons or entities from  
18          certain claims relating to projectiles at sport  
19          shooting and training ranges; providing a  
20          limitation; requiring withdrawal of certain  
21          claims from courts or administrative agencies  
22          after a certain date; providing a civil cause  
23          of action to recover costs of litigation,  
24          attorney's fees, and other damages; providing  
25          criminal penalties; specifying preemption by  
26          the state; providing for construction;  
27          providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Section 790.333, Florida Statutes, is  
2 created to read:

3 790.333 Sport shooting and training range protection;  
4 liability; claims, expenses, and fees; penalties; preemption;  
5 construction.--

6 (1) LEGISLATIVE FINDINGS:--

7 (a) The Legislature finds that in excess of 400 sport  
8 shooting and training ranges exist on public and private lands  
9 throughout this state.

10 (b) These sport shooting and training ranges are  
11 widely used and enjoyed by the residents of this state and are  
12 a necessary component of the guarantees of the Second  
13 Amendment to the United States Constitution and of s. 8, Art.  
14 I of the State Constitution.

15 (c) Many of these ranges are used by state and local  
16 law enforcement agencies for training, practice, and regular  
17 mandatory qualification by law enforcement officers; by Fish  
18 and Wildlife Conservation Commission hunter safety instructors  
19 who teach adults and youngsters in the safe use and handling  
20 of firearms in preparation for obtaining hunting licenses; by  
21 school boards, colleges, and universities for reserve officer  
22 training corps training and activities; by school shooting  
23 teams; by Olympic competitors; and by certified instructors  
24 who teach the safe use and handling of firearms in preparation  
25 for applying for licenses to carry concealed firearms for  
26 lawful self-protection.

27 (d) The public policy of the State of Florida is to  
28 encourage the safe handling and operation of firearms and  
29 mandates appropriate training in the safe use and handling of  
30 firearms for persons licensed to carry concealed firearms and  
31 for persons licensed to hunt in the state. Sport shooting and

1 training ranges throughout this state provide the location at  
2 which this important public purpose is served and at which the  
3 firearms training mandates are fulfilled.

4 (e) Projectiles are integral to sport shooting and  
5 training range activity and to the ownership and use of  
6 firearms.

7 (f) Over years of operation, projectiles have  
8 accumulated in the environment at many ranges. Whether this  
9 projectile accumulation has caused or will cause degradation  
10 of the environment or harm to human health depends on factors  
11 that are site-specific. Therefore, sport shooting and  
12 training ranges must be allowed flexibility to apply  
13 appropriate environmental management practices at ranges. The  
14 use of environmental management practices can be implemented  
15 to avoid or reduce any potential for adverse environmental  
16 impact.

17 (g) The Department of Environmental Protection, in  
18 collaboration with shooting range owners and operators, sports  
19 shooting organizations, law enforcement representatives, and  
20 university researchers, has developed shooting range best  
21 management practices in order to minimize any potential for  
22 any adverse environmental impact resulting from the operation  
23 of shooting ranges.

24 (h) Appropriate environmental management practices,  
25 when implemented where applicable, can minimize or eliminate  
26 environmental impacts associated with projectiles.  
27 Environmental management practices to maintain or to improve  
28 the condition of ranges is evolving and will continue to  
29 evolve.

30 (i) Unnecessary litigation and unnecessary regulation  
31 by governmental agencies of sport shooting and training ranges

1 impairs the ability of residents of this state to ensure safe  
2 handling of firearms and to enjoy the recreational  
3 opportunities ranges provide. The cost of defending these  
4 actions is prohibitive and threatens to bankrupt and destroy  
5 the sport shooting and training range industry.

6 (j) The Department of Environmental Protection does  
7 not have nor has it ever had authority to force permitting  
8 requirements of part IV of chapter 403 on owners and operators  
9 of sport shooting and training ranges.

10 (k) The elimination of sport shooting ranges will  
11 unnecessarily impair the ability of residents of this state to  
12 exercise and practice their constitutional guarantees under  
13 the Second Amendment to the United States Constitution and  
14 under s. 8, Art 1 of the State Constitution.

15 (2) LEGISLATIVE INTENT.--The Legislature intends to  
16 protect public and private sport shooting or training range  
17 owners, operators, users, employees, agents, contractors,  
18 customers, lenders, and insurers from lawsuits and other legal  
19 actions by the state, special purpose districts, or political  
20 subdivisions and to promote maximum flexibility for  
21 implementation of environmental management practices and of  
22 the principles of risk-based corrective action pursuant to s.  
23 376.30701. It is also the intent of the Legislature that  
24 legal action against sport shooting and training ranges will  
25 only be a last-resort option and be available only to the  
26 department and only after all reasonable efforts to resolve  
27 disputes at shooting ranges, including compliance assistance,  
28 negotiations, and alternative dispute resolution have been  
29 attempted.

30 (3) DEFINITIONS.--As used in this act:  
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1           (a) "Department" means the Department of Environmental  
2 Protection.

3           (b) "Operator" means any person who operates or has  
4 operated a sport shooting or training range.

5           (c) "Owner" means any person who owns or has owned a  
6 sport shooting or training range or any interest therein.

7           (d) "Projectile" means any object expelled, propelled,  
8 discharged, shot, or otherwise released from a firearm, BB  
9 gun, airgun, or similar device, including, but not limited to,  
10 gunpowder, ammunition, lead, shot, skeet, and trap targets and  
11 associated chemicals, derivatives, and constituents thereof.

12           (e) "Environmental management practices" includes but  
13 is not limited to Best Management Practices for Environmental  
14 Stewardship of Florida Shooting Ranges as developed by the  
15 Department of Environmental Protection. Such practices  
16 include, but are not limited to, control and containment of  
17 projectiles; prevention of the migration of projectiles and  
18 their constituents to ground and surface water; periodic  
19 removal and recycling of projectiles; and documentation of  
20 actions taken.

21           (f) "Environment" means the air, water, surface water,  
22 sediment, soil, and groundwater and other natural and man-made  
23 resources of this state.

24           (g) "User" means any person, partner, joint venture,  
25 business or social entity, or corporation, or any group of the  
26 foregoing, organized or united for a business, sport, or  
27 social purpose.

28           (h) "Sport shooting and training range" or "range"  
29 means any area that has been designed, or operated for the use  
30 of, firearms, rifles, shotguns, pistols, silhouettes, skeet,  
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1 trap, black powder, BB guns, airguns, or similar devices, or  
2 any other type of sport or training shooting.

3 (4) DUTIES.--

4 (a) No later than January 1, 2005, the department  
5 shall make a good faith effort to provide copies of the Best  
6 Management Practices for Environmental Stewardship of Florida  
7 Shooting Ranges to all owners or operators of sport shooting  
8 or training ranges. The department shall also provide  
9 technical assistance with implementing environmental  
10 management practices, which may include workshops,  
11 demonstrations, or other guidance, if any owner or operator of  
12 sport shooting or training ranges requests such assistance.

13 (b) No later than January 1, 2006, sport shooting or  
14 training range owners, operators, tenants, or occupants shall  
15 implement situation appropriate environmental management  
16 practices.

17 (c) If contamination is suspected or identified by any  
18 owner, operator, tenant, or occupant of sport shooting or  
19 training ranges, any owner, operator, tenant, or occupant of  
20 sport shooting or training ranges may request that the  
21 department assist with or perform contamination assessment,  
22 including, but not limited to, assistance preparing and  
23 presenting a plan to confirm the presence and extent of  
24 contamination.

25 (d) If contamination is suspected or identified by a  
26 third-party complaint or adjacent property sampling events,  
27 the department shall give 60 days' notice to the sport  
28 shooting or training range owner, operator, tenant, or  
29 occupant of the department's intent to enter the site for the  
30 purpose of investigating potential sources of contamination.  
31 The department may assist with or perform contamination

1 assessment, including, but not limited to, assistance  
2 preparing and presenting a plan to confirm the presence and  
3 extent of contamination.

4 (e) If the department confirms contamination under  
5 paragraph (c) or paragraph (d), principles of risk-based  
6 corrective action pursuant to s. 376.30701 shall be applied to  
7 sport shooting or training ranges. Application of the minimum  
8 risk-based corrective action principles shall be the primary  
9 responsibility of the sport shooting range or training range  
10 owner or operator for implementation, however, the department  
11 may assist in these efforts. Risk-based corrective action  
12 plans used for these cleanups shall be based upon the  
13 presumption that the sport shooting or training range is an  
14 industrial use and not a residential use and will continue to  
15 be operated as a sport shooting or training range.

16 (5) SPORT SHOOTING AND TRAINING RANGE PROTECTION.--

17 (a) Notwithstanding any other provision of law, any  
18 public or private owner, operator, employee, agent,  
19 contractor, customer, lender, insurer, or user of any sport  
20 shooting or training range located in this state shall have  
21 immunity from lawsuits and other legal actions from the state  
22 and any of its agencies, special purpose districts, or  
23 political subdivisions for any claims of any kind associated  
24 with the use, release, placement, deposition, or accumulation  
25 of any projectile in the environment, on or under that sport  
26 shooting or training range, or any other property over which  
27 the range has an easement, leasehold, or other legal right of  
28 use, if the sport shooting or training range owner or operator  
29 has made a good faith effort to comply with subsection (4).

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1           (b) Nothing in this act is intended to impair or  
2 diminish the private property rights of owners of property  
3 adjoining a sport shooting or training range.

4           (c) The sport shooting and training range protections  
5 provided by this act are supplemental to any other protections  
6 provided by general law.

7           (6) WITHDRAWALS OF CLAIMS AND RECOVERY OF EXPENSES AND  
8 ATTORNEYS FEES.--

9           (a) Within 90 days after the effective date of this  
10 act becoming law, all claims by the state and any of its  
11 agencies, special purpose districts, or political subdivisions  
12 against sport shooting or training ranges pending in any court  
13 of this state or before any administrative agency on January  
14 1, 2004, shall be withdrawn. The termination of such cases  
15 shall have no effect on the defendant's cause of action for  
16 damages, reasonable attorney's fees, and costs.

17           (b) In any action filed in violation of this act after  
18 the effective date of this act, the defendant shall recover  
19 all expenses resulting from such action from the governmental  
20 body, person, or entity bringing such unlawful action.

21           (7) PENALTIES.--Any official, agent, or employee of a  
22 county, municipality, town, special purpose district, or other  
23 political subdivision or agent of the state, while he or she  
24 was acting in his or her official capacity and within the  
25 scope of his or her employment or office, who intentionally  
26 and maliciously violates the provisions of this section or is  
27 party to bringing an action in violation of this section  
28 commits a misdemeanor of the first degree, punishable as  
29 provided in s. 775.082 and s. 775.083.

30           (8) PREEMPTION.--Except as expressly provided by  
31 general law, the Legislature hereby declares that it is



1 occupying the whole field of regulation of firearms and  
2 ammunition use at sport shooting and training ranges,  
3 including the environmental effects of projectile deposition  
4 at sport shooting and training ranges.

5 (9) The provisions of this act shall supersede any  
6 conflicting provisions of chapter 376 or chapter 403.

7 (10) CONSTRUCTION.--This act shall be liberally  
8 construed to effectuate its remedial and deterrent purposes.

9 Section 2. This act shall take effect upon becoming a  
10 law.

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