

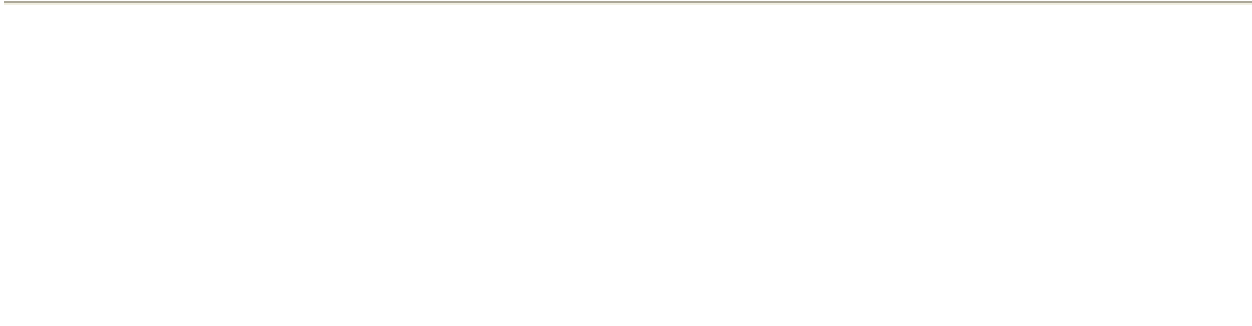
Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Baxley offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause, and insert:

5 Section 1. Subsections (1) and (6) of section 493.6105,
6 Florida Statutes, are amended, and paragraph (c) is added to
7 subsection (7) of said section, to read:

8 493.6105 Initial application for license.--

9 (1) Each individual, partner, or principal officer in a
10 corporation, shall file with the department a complete
11 application accompanied by an application fee not to exceed \$60,
12 except that the applicant for a Class "D" or Class "G" license
13 shall not be required to submit an application fee except as
14 provided in subsection (6). The application fee shall not be
15 refundable.

16 (a) The application submitted by any individual, partner,
17 or corporate officer shall be approved by the department prior
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18 to that individual, partner, or corporate officer assuming his
19 or her duties.

20 (b) Individuals who invest in the ownership of a licensed
21 agency, but do not participate in, direct, or control the
22 operations of the agency shall not be required to file an
23 application.

24 (6) In addition to the requirements outlined in subsection
25 (3), an applicant for a Class "G" license shall:

26 (a) Satisfy minimum training criteria for firearms
27 established by rule of the department, which training criteria
28 shall include, but is not limited to, 28 hours of range and
29 classroom training taught and administered by a Class "K"
30 licensee; however, no more than 8 hours of such training shall
31 consist of range training. If the applicant can show proof that
32 he or she is an active law enforcement officer currently
33 certified under the Criminal Justice Standards and Training
34 Commission or has completed the training required for that
35 certification within the last 12 months, or if the applicant
36 submits one of the certificates specified in paragraph (7)(a),
37 the department may waive the foregoing firearms training
38 requirement.

39 (b) For each initial and renewal license, pay a
40 nonrefundable fee of \$20, which shall be transferred monthly to
41 the Shooting Range Cleanup Trust Fund in the Department of
42 Environmental Protection.

43 (7) In addition to the requirements under subsection (3),
44 an applicant for a Class "K" license shall:

45 (c) For each initial and renewal license, pay an
46 additional nonrefundable fee of \$50, which shall be transferred
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47 monthly to the Shooting Range Cleanup Trust Fund in the
48 Department of Environmental Protection.

49 Section 2. Paragraph (f) is added to subsection (5) of
50 section 790.06, Florida Statutes, to read:

51 790.06 License to carry concealed weapon or firearm.--

52 (5) The applicant shall submit to the Department of
53 Agriculture and Consumer Services:

54 (f) In addition to the initial and renewal fees provided
55 in paragraph (b), a nonrefundable annual fee of \$5, which shall
56 be transferred monthly to the Shooting Range Cleanup Trust Fund
57 in the Department of Environmental Protection.

58 Section 3. Paragraph (e) is added to subsection (1) of
59 section 790.065, Florida Statutes, to read:

60 790.065 Sale and delivery of firearms.--

61 (1) A licensed importer, licensed manufacturer, or
62 licensed dealer may not sell or deliver from her or his
63 inventory at her or his licensed premises any firearm to another
64 person, other than a licensed importer, licensed manufacturer,
65 licensed dealer, or licensed collector, until she or he has:

66 (e) In addition to the fee provided in paragraph (b),
67 collected a nonrefundable fee of \$2 per transaction, which shall
68 be transferred monthly to the Shooting Range Cleanup Trust Fund
69 in the Department of Environmental Protection.

70
71 However, if the person purchasing, or receiving delivery of, the
72 firearm is a holder of a valid concealed weapons or firearms
73 license pursuant to the provisions of s. 790.06 or holds an
74 active certification from the Criminal Justice Standards and
75 Training Commission as a "law enforcement officer," a
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76 "correctional officer," or a "correctional probation officer" as
77 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), the
78 provisions of this subsection do not apply.

79 Section 4. Section 790.333, Florida Statutes, is created
80 to read:

81 790.333 Sport shooting and training range protection;
82 liability; claims, expenses, and fees; penalties; preemption;
83 construction.--

84 (1) LEGISLATIVE FINDINGS.--

85 (a) The Legislature finds that more than 400 sport
86 shooting and training ranges exist on public and private lands
87 throughout this state.

88 (b) These sport shooting and training ranges are widely
89 used and enjoyed by the residents of this state and are a
90 necessary component of the guarantees of the Second Amendment to
91 the United States Constitution and of s. 8, Art. I of the State
92 Constitution.

93 (c) Many of these ranges are used by state and local law
94 enforcement agencies for training, practice, and regular
95 mandatory qualification by law enforcement officers; by hunter
96 safety instructors of the Fish and Wildlife Conservation
97 Commission who teach adults and youngsters the safe use and
98 handling of firearms in preparation for obtaining hunting
99 licenses; by school boards, colleges, and universities for
100 reserve officer training corps training and activities; by
101 school shooting teams; by Olympic competitors; and by certified
102 instructors who teach the safe use and handling of firearms in
103 preparation for applying for licenses to carry concealed
104 firearms for lawful self-protection.

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105 (d) The public policy of this state is to encourage the
106 safe handling and operation of firearms and mandates appropriate
107 training in the safe use and handling of firearms for persons
108 licensed to carry concealed firearms and for persons licensed to
109 hunt in this state. Sport shooting and training ranges
110 throughout this state provide the location at which this
111 important public purpose is served and at which the firearms
112 training mandates are fulfilled.

113 (e) Projectiles are integral to sport shooting and
114 training range activity and to the ownership and use of
115 firearms.

116 (f) Over years of operation, projectiles have accumulated
117 in the environment at many ranges, the environmental impact of
118 which is disputed.

119 (g) Litigation has been initiated by certain state
120 agencies, including the Department of Environmental Protection
121 and the Southwest Florida Water Management District, against
122 sport shooting and training range owners and operators seeking
123 to compel such owners and operators to discontinue the use of
124 certain projectiles and to investigate and remove accumulated
125 projectiles under the theory that these projectiles were
126 deposited without authorization under prevailing state
127 environmental laws. The cost of defending these actions is
128 prohibitive and threatens to destroy the sport shooting and
129 training range industry.

130 (h) The elimination of sport shooting and training ranges
131 would unnecessarily impair the ability of residents of this
132 state to exercise and practice their constitutional guarantees

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133 under the Second Amendment to the United States Constitution and
134 under s. 8, Art. I of the State Constitution.

135 (2) LEGISLATIVE INTENT.--The Legislature intends to
136 protect and immunize sport shooting and training range owners,
137 operators, users, employees, agents, contractors, and customers
138 from environmental liability as described in this section and to
139 prohibit actions by the state, special purpose districts, or
140 political subdivisions which threaten to destroy or bankrupt
141 sport shooting and training ranges.

142 (3) DEFINITIONS.--As used in this act, the term:

143 (a) "Environment" means the air, water, surface water,
144 sediment, soil, groundwater, and other natural and manmade
145 resources of this state.

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

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

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

155 (e) "Sport shooting and training range" or "range" means
156 any area that has been designed or operated primarily for the
157 use of firearms, rifles, shotguns, pistols, silhouettes, skeet,
158 trap, black powder, BB guns, airguns, or similar devices or for
159 any other type of sport or training shooting.

160 (f) "User" means any person, partner, joint venture,
161 business, or social entity or corporation, or any group of such
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162 persons or entities, organized or united for a business, sport,
163 or social purpose.

164 (4) SPORT SHOOTING AND TRAINING RANGE LIABILITY
165 PROTECTION.--Notwithstanding any other provision of law, any
166 private or public owner, operator, employee, agent, contractor,
167 customer, or user of any sport shooting or training range
168 located in this state identified to the department by September
169 30, 2005, as set forth in paragraph (7)(j) shall have limited
170 liability to this state or any agency of the state, special
171 purpose district, or political subdivision of this state for any
172 claim associated with the intentional or unintentional
173 placement, deposition, or accumulation of projectiles in the
174 environment on or under that sport shooting or training range or
175 any other property over which the range has an easement,
176 leasehold, or other legal right of use. For purposes of this
177 subsection, a public owner or operator means the state, a
178 county, a municipal corporation, a state university or college,
179 or a school district.

180 (5) PENDING AND FUTURE CLAIMS.--

181 (a) All claims from which private or public owners,
182 operators, employees, agents, contractors, customers, or users
183 of any sport shooting and training ranges are immunized under
184 this section which are pending in any court of this state or
185 before any administrative agency on January 1, 2004, shall be
186 withdrawn within 30 days after the effective date of this act,
187 and failure to immediately withdraw such a claim shall be a
188 violation of this act and shall be penalized in accordance with
189 subsection (6).

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190 (b) No state agency, county, municipality, town, special
191 purpose district, or other political subdivision may benefit
192 financially or otherwise from any such action pending on or
193 after January 1, 2004, in which any judgment or other legal
194 action or recourse is or has been entered in favor of the state,
195 any of its agencies, or a county, municipality, town, special
196 purpose district, or other political subdivision against any
197 private or public owner, operator, employee, agent, contractor,
198 customer, or user of any sport shooting or training range. The
199 state, agency, county, municipality, town, special purpose
200 district, or other political subdivision that brought such
201 action shall immediately pay all costs of litigation and all
202 reasonable attorney's fees, paralegal's fees, and damages for
203 all economic and other losses resulting from the initiation of
204 such claim for which this section provides immunity.

205 (c) Any private or public owner, operator, employee,
206 agent, contractor, customer, or user of any sport shooting or
207 training range injured as a result of a claim filed in violation
208 of this section shall have a civil cause of action for damages,
209 reasonable attorney's fees, and costs.

210 (6) PENALTIES.--Any official, employee, or other agent of
211 this state or its agencies, or of a county, municipality, town,
212 special purpose district, or other political subdivision of this
213 state, who, while acting in his or her official capacity and
214 within the scope of his or her employment or office, willfully
215 and knowingly brings or is a party to bringing an action in
216 violation of this section commits a misdemeanor of the first
217 degree, punishable as provided in s. 775.082 or s. 775.083.

218 (7) DUTIES.--

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219 (a) The Department of Environmental Protection shall
220 develop a plan and procedures for the reasonable review,
221 contamination assessment, and cleanup of sport shooting and
222 training ranges if there is credible reason to believe that the
223 accumulation of projectiles on such ranges poses an immediate
224 threat to the environment or to human health. The department
225 shall give 60 days' notice to the sport shooting or training
226 range owner, operator, tenant, or occupant of the department's
227 intent to enter the site for the purpose of a contamination
228 assessment.

229 (b) Principles of risk-based corrective action pursuant to
230 s. 376.30701 shall be applied to sport shooting or training
231 ranges. Risk-based corrective action plans used for these
232 cleanups shall be based upon the presumption that the site will
233 continue to be operated as a sport shooting or training range.

234 (c) The department shall adopt rules establishing
235 priorities for state-conducted cleanups at sport shooting or
236 training ranges based upon factors that include, but need not be
237 limited to:

238 1. The degree to which human health, safety, or welfare
239 may be affected by exposure to the contamination.

240 2. The size of the population or area affected by the
241 contamination.

242 3. The present and future uses of the affected aquifer or
243 surface waters, with particular consideration as to the
244 probability that the contamination is substantially affecting,
245 or will migrate to and substantially affect, a known public or
246 private source of potable water.

247 4. The effect of the contamination on the environment.

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248 5. In the case of projects with equal priority, the extent
249 to which other financial assistance is available.

250
251 Nothing in this paragraph shall be construed to restrict the
252 department from modifying the priority status of a
253 rehabilitation site when conditions warrant, taking into
254 consideration the actual distance between the contamination site
255 and groundwater or surface water receptors or other factors that
256 affect the risk of exposure to contaminants of concern.

257 (d) The department may enter a sport shooting or training
258 range and conduct an environmental cleanup of the site under the
259 following circumstances:

260 1. The department has proven by competent, substantial
261 evidence through scientifically accepted documentation that the
262 effect of accumulation of lead projectiles at the sport shooting
263 or training range is in violation of laws and rules and is
264 causing an unreasonable risk of injury or death to humans or the
265 environment.

266 2. The department has presented scientifically accepted
267 documentation of contamination at the sport shooting or training
268 range to the sport shooting and training range owner, operator,
269 tenant, or occupant.

270 3. The department has made a reasonable effort to obtain
271 permission from the sport shooting or training range owner,
272 operator, tenant, or occupant for entrance for the purpose of
273 environmental cleanup.

274 4. The department has given 120 days' notice to the sport
275 shooting or training range owner, operator, tenant, or occupant

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276 of the department's intent to enter the site for the purpose of
277 an environmental cleanup.

278 5. The sport shooting or training range owner, operator,
279 tenant, or occupant has given permission to the department to
280 conduct the environmental cleanup.

281 (e) If the department has complied with the requirements
282 of subparagraphs (d)1.-4. and been denied permission to conduct
283 the environmental cleanup, the department may seek judicial
284 intervention for the purpose of fulfilling its duties.

285 (f) If the department seeks judicial intervention as
286 authorized in paragraph (e), the owner, operator, tenant, or
287 occupant shall have the opportunity to rebut the department's
288 claims.

289 (g) If the department seeks judicial intervention, the
290 prevailing party may recover related costs and fees from the
291 other party or parties.

292 (h) Upon this act becoming a law, the department shall
293 initially notify those sport shooting and training ranges known
294 to the department of the passage of this act and the rights and
295 obligations of range owners and operators under this act.

296 (i) No later than October 1, 2004, the department shall
297 establish a range identification process to identify the
298 ownership and location of all sport shooting and training ranges
299 in the state. The department may develop the guidelines
300 necessary to implement the range identification process.
301 However, the process for developing the guidelines by the
302 department shall be strictly limited to the following
303 activities:

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304 1. In establishing the identification process, the
305 department shall make a reasonable effort to notify the public
306 of the identification requirements, which shall include
307 providing legal notice as provided in chapter 50.

308 2. Any costs associated with this identification process
309 shall be borne by the department.

310 3. The department shall develop an education program to
311 assist identified ranges and to promote the use of best-
312 management practices that can be implemented to limit
313 environmental impacts associated with the operation of the
314 ranges.

315
316 Any owner of a sport shooting or training range must identify
317 himself or herself to the department in accordance with
318 department guidelines and provide, at a minimum, the name and
319 legal address of the owner and the address and legal description
320 of the range. Owners of ranges in existence on or before October
321 1, 2004, must identify themselves to the department by September
322 30, 2005. Owners of ranges established after October 1, 2004,
323 must identify themselves to the department within 1 year after
324 the establishment of the ranges.

325 (j) Sport shooting or training ranges that have been
326 identified to the department by September 30, 2005, may not be
327 required to pay for the initial environmental cleanup, whenever
328 it occurs, and the cost of the contamination assessment and the
329 initial environmental cleanup shall be borne by the state. The
330 cost of any subsequent cleanup shall be borne by the owner,
331 operator, tenant, or occupant of the range. The cost of
332 environmental cleanups conducted at ranges that have identified
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333 themselves to the department after September 30, 2005, shall be
334 borne by the owner, operator, tenant, or occupant of the range.
335 The liability protection in subsection (4) terminates after the
336 initial environmental cleanup is completed by the department.

337 (k) A county, municipality, town, special purpose
338 district, other political subdivision, or any other governmental
339 entity in the state may not initiate any site investigation or
340 any other activity related to environmental issues or cleanup of
341 sport shooting or training ranges unless such activity is
342 specifically permitted by the Department of Environmental
343 Protection and is under the direct supervision of the
344 department.

345 (l) The department may use funds from the Water Quality
346 Assurance Trust Fund for expenses associated with this act.

347 (m) The department shall ensure that any proceeds
348 resulting from the disposition of material removed during range
349 site rehabilitation shall be deposited into the Shooting Range
350 Cleanup Trust Fund.

351 (n) This section does not relieve the state of its duty to
352 absorb the costs of environmental cleanups of sport shooting or
353 training ranges under other circumstances.

354 (o) The department may not initiate a range cleanup unless
355 funding is available to complete the cleanup project. The
356 department shall work with ranges to develop, with reasonable
357 certainty, estimates of the time necessary to clean up each
358 range and shall strictly adhere to a reasonable timeframe
359 consistent with the principles of risk-based corrective action.
360 Once a cleanup has begun, the department shall proceed, without

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361 delay until completion, using the most fiscally responsible
362 approach.

363 (8) PREEMPTION.--Notwithstanding any other provision of
364 law, the Legislature preempts the entire field of regulating the
365 environmental effects of projectile deposition at sport shooting
366 and training ranges.

367 (9) CONSTRUCTION.--This section shall be liberally
368 construed to effectuate its remedial and deterrent purposes.

369 Section 5. Section 943.165, Florida Statutes, is created
370 to read:

371 943.165 Payment of annual shooting range cleanup fee.--
372 No later than October 15 of each year, each employing agency
373 shall pay to the Department of Law Enforcement a \$12 fee for
374 each law enforcement officer who was employed on July 1 of that
375 year. Such fees shall be deposited initially in the Department
376 of Law Enforcement Operating Trust Fund and then transferred to
377 the Shooting Range Cleanup Trust Fund in the Department of
378 Environmental Protection.

379 Section 6. This act shall take effect upon becoming a law.
380

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

382 Remove the entire title, and insert:

383 A bill to be entitled

384 An act relating to sport shooting and training range
385 environmental liability protection; amending ss. 493.6105,
386 790.06, and 790.065, F.S.; imposing certain additional
387 license fees; requiring payment of certain fees into the
388 Shooting Range Cleanup Trust Fund; creating s. 790.333,
389 F.S.; providing legislative findings and intent; providing

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390 definitions; specifying immunity from liability for certain
391 persons or entities from certain claims relating to
392 projectiles at sport shooting and training ranges;
393 providing a limitation; requiring withdrawal of certain
394 claims from courts or administrative agencies after a
395 certain date; providing that certain legal actions found in
396 favor of the state may not benefit the state; requiring the
397 state to pay all costs of litigation, attorney's fees,
398 damages, and economic loss for certain legal actions found
399 in its favor; requiring the Department of Environmental
400 Protection to develop a plan to conduct review and cleanup;
401 requiring the department to conduct an environmental
402 cleanup under certain circumstances; providing duties of
403 and restrictions on the department and ranges; requiring
404 the department to adopt rules establishing certain site
405 cleanup priorities; creating an identification process;
406 authorizing the department to develop guidelines;
407 authorizing the department to use funds from the Water
408 Quality Assurance Trust Fund for expenses associated with
409 the act; requiring the department to deposit certain
410 proceeds into the Shooting Range Cleanup Trust Fund;
411 providing criminal penalties; specifying preemption by the
412 state; providing for construction; creating s. 943.165,
413 F.S.; requiring certain agencies to pay certain fees to the
414 Department of Law Enforcement for certain law enforcement
415 officers; requiring deposit of such fees into an operating
416 trust fund and transfer into the Shooting Range Cleanup
417 Trust Fund; providing an effective date.

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