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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2013 Senate Bill 527</b>	<b>Senate Amendments 1 and 3</b>
<i>Memo published:</i> February 21, 2014	<i>Contact:</i> Anne Sappenfield, Principal Attorney (267-9485)

Senate Bill 527 relates to liability and immunity of sport shooting ranges.

### **Current Law**

Under current law, among other provisions in s. 895.527, Stats., relating to limitations on liability and restrictions on operation of a sport shooting range, a person who owns or operates a sport shooting range is immune from civil liability related to noise resulting from the operation of the sport shooting range. In addition, a person who owns or operates a sport shooting range is not subject to a nuisance action or to zoning conditions related to noise and no court may enjoin or restrain the operation or use of a sport shooting range on the basis of noise.

The statute further provides that any sport shooting range that exists on July 16, 2013, may continue to operate as a sport shooting range at that location notwithstanding any zoning ordinance enacted under general local zoning or planning authority if the sport shooting range is a lawful or a legal nonconforming use under any zoning ordinance that is in effect on July 16, 2013. The statute specifies that the operation of the sport shooting range continues to be a lawful use or legal nonconforming use notwithstanding any expansion of, or enhancement or improvement to, the sport shooting range.

### **Senate Bill 527**

The bill expands the provision of current law relating to nuisance actions and zoning conditions related to noise to provide that a person who owns or operates a sport shooting range is not subject to a nuisance action or to any state or local zoning conditions or rules, including those related to noise or nonconforming use, and that no court may enjoin or restrain the operation or use of a sport shooting range on the basis of noise, nonconforming use, or any other state or local zoning condition or rule.

The bill also specifies that any sport shooting range that exists on July 16, 2013, may continue to operate as a sport shooting range at that location notwithstanding any zoning ordinance enacted under the statute relating to zoning of shorelands on navigable waters.

The bill creates several new provisions, as well. Under the bill, the following persons are immune from civil liability in any action commenced by the state or its political subdivisions, or by a special purpose district, related to the use, release, placement, deposition, or accumulation of any projectiles on or under the sport shooting range or other contiguous real property over which the owner or operator of a sport shooting range has an easement, leasehold, or other legal right to use: (a) an owner or operator of a sport shooting range; (b) an employee, agent, contractor, customer, lender, or insurer of the owner or operator of a sport shooting range; or (c) any user of a sport shooting range.

The bill provides that the following persons are immune from any civil action based solely on the negligent action of a user of the sport shooting range: (a) an owner, operator, officer, or board member of a sport shooting range; and (b) any employee or volunteer acting on behalf of the owner or operator who provided recommendations regarding the operation of a sport shooting range.

Under the bill, any person who provides a firearms training course in good faith at a sport shooting range is immune from civil liability for any act or omission related to the firearms training course if the course is approved by a national or state organization.

The bill specifies that the statute relating to limitations on liability and restrictions on operation of a sport shooting range does not impair or diminish the private property rights of owners of property adjoining a sport shooting range.

### **Senate Amendment 1**

Senate Amendment 1 deletes **lenders** from the list of persons who are immune from civil liability in any action commenced by the state or its political subdivisions, or by a special purpose district, related to the use, release, placement, deposition, or accumulation of any projectiles on or under the sport shooting range or other contiguous real property over which the owner or operator of a sport shooting range has an easement, leasehold, or other legal right to use.

The amendment also deletes the provision of the bill relating to immunity of a person who provides a firearms training course.

### **Senate Amendment 3**

Senate Amendment 3 replaces the modifications to current law in the bill relating to nuisance actions and zoning condition related to noise. Under the amendment, as under current law, a person who owns or operates a sport shooting range is not subject to a nuisance action or to state or local zoning conditions related to noise. The amendment further provides that, if a shooting range, on the date it was established, was a lawful or legal nonconforming use under any state law or local ordinance related to its use that was in effect on that date, the

sport shooting range continues to be subject to the state laws and local ordinances related to its use that were in effect on the date it was established. Under the amendment, no court may enjoin or restrain the operation or use of a shooting range on the basis of noncompliance with a state law or local ordinance related to its operation or use that was enacted after the date that the shooting range was established if the shooting range, on the date it was established, was a lawful or legal nonconforming operation or use under any state law or local ordinance related to its operation or use that was in effect on that date.

### **Bill History**

Senate Amendment 1 was offered by the Senate Committee on Judiciary and Labor. Senate Amendment 3 was offered by Senators Grothman and Fitzgerald. On February 19, 2014, the Senate adopted the amendments on voice votes and passed the bill, as amended, on a vote of Ayes, 19; Noes, 13.

AS:ksm