



2017 SENATE BILL 691

January 10, 2018 - Introduced by Senators TIFFANY, MOULTON, STROEBEL and WANGGAARD, cosponsored by Representatives STAFSHOLT, KLEEFISCH, BRANDTJEN, R. BROOKS, EDMING, FELZKOWSKI, JARCHOW, KRUG, PRONSCHINSKE, QUINN, SKOWRONSKI and TAUCHEN. Referred to Committee on Sporting Heritage, Mining and Forestry.

- 1 **AN ACT** *to create* 895.08 of the statutes; **relating to:** the standard of proof
2 required to effect a temporary or permanent closure of a sport shooting range
3 based on an unsafe condition.

Analysis by the Legislative Reference Bureau

This bill creates a procedure that law enforcement officers and courts must follow to temporarily or permanently close any portion of a sport shooting range due to an alleged unsafe condition on the premises.

Under the bill, a law enforcement officer may order the owner or operator of a sport shooting range to cease a portion of the operation for up to 72 hours if the officer has probable cause to believe a clear and immediate public safety hazard exists at the sport shooting range. The bill defines a “clear and immediate public safety hazard” as an unsafe condition that originates from, or is at, a sport shooting range and that could reasonably be expected to cause death or serious injury to an individual. Under the bill, a court may, in response to a petition filed by an individual or a local unit of government, order the owner or operator of a sport shooting range to cease a portion of the operation for up to 72 hours if it finds by a preponderance of the evidence that a clear and immediate public safety hazard is present. When a court issues such an order, it must also order the petitioner to submit a report from an investigator within five days identifying any clear and immediate public safety hazard that may warrant permanent cessation of any portion of the sport shooting range’s operation. If the court finds such a clear and immediate public safety hazard, the court must order the owner or operator of the sport shooting range to remedy the

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condition to eliminate the public safety hazard. If the owner or operator of the sport shooting range demonstrates to the court that it has properly remedied the unsafe condition, the court must lift any order to cease a portion of the sport shooting range's operation. This procedure applies retroactively.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.08 of the statutes is created to read:

2 **895.08 Sport shooting ranges; actions related to safety. (1) DEFINITIONS.**

3 In this section:

4 (a) "Clear and immediate public safety hazard" means an unsafe condition that
5 originates from, or is at, a sport shooting range and that could reasonably be expected
6 to cause death or serious injury to an individual.

7 (b) "Local unit of government" means the governing body of a county, city, town,
8 village, or the elected tribal governing body of a federally recognized American
9 Indian tribe or band in this state.

10 (c) "Sport shooting range" has the meaning given in s. 895.527 (1).

11 **(2) TEMPORARY CLOSURE GENERALLY PROHIBITED.** (a) Except as provided in pars.
12 (b) and (c), no law enforcement officer or court may require the owner or operator of
13 a sport shooting range to cease or suspend any portion of its operation because of an
14 alleged or actual unsafe condition at, or originating from, the sport shooting range.

15 (b) A law enforcement officer may order the owner or operator of a sport
16 shooting range to cease or suspend a portion of its operation if he or she has probable
17 cause to believe that the portion of the operation constitutes a clear and immediate
18 public safety hazard. A law enforcement officer may not order cessation or
19 suspension of any portion of the sport shooting range's operation that he or she does
20 not have probable cause to believe constitutes a clear and immediate public safety

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1 hazard and may not order cessation or suspension under this paragraph for more
2 than 72 hours.

3 (c) 1. A court may, upon petition by a local unit of government or an individual,
4 order the owner or operator of a sport shooting range to cease or suspend a portion
5 of its operation if the court finds, upon a preponderance of the evidence presented,
6 that the portion of the sport shooting range's operation constitutes a clear and
7 immediate public safety hazard.

8 2. There is a rebuttable presumption that no portion of a sport shooting range's
9 operation constitutes a clear and immediate public safety hazard.

10 3. No court may order cessation or suspension of any portion of the sport
11 shooting range's operation that it does not find to constitute a clear and immediate
12 public safety hazard. No court may order cessation or suspension under this
13 paragraph for more than 72 hours. A court that orders cessation or suspension under
14 this paragraph shall proceed under sub. (3).

15 **(3) INVESTIGATION, FINDINGS, AND ORDERS FOR REMEDIATION.** (a) Upon issuing an
16 order under sub. (2) (c), a court shall order the petitioner to submit, not later than
17 5 days after it issues the order, a report from an investigator that identifies any
18 unsafe condition at, or originating from, a sport shooting range and that identifies
19 whether or not the unsafe condition constitutes a clear and immediate public safety
20 hazard that may warrant permanent cessation of any portion of the sport shooting
21 range's operation.

22 (b) A court may find that an unsafe condition may warrant permanent
23 cessation of any portion of the sport shooting range's operation only upon finding that
24 an alleged unsafe condition caused or led to one or more documented events that

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1 caused immediate danger to the life or safety of an individual and that the alleged
2 unsafe condition constitutes a clear and immediate public safety hazard.

3 (c) Upon finding that there is a clear and immediate public safety hazard that
4 may warrant permanent cessation of any portion of the sport shooting range's
5 operation, the court shall order the owner or operator of a sport shooting range to
6 remedy the condition in order to eliminate the clear and immediate public safety
7 hazard. A court may issue or extend an order to cease or suspend the portion of the
8 sport shooting range's operation that constitutes a clear and immediate public safety
9 hazard but may not order the owner or operator of a sport shooting range to cease
10 or suspend any portion of the sport shooting range's operation that does not
11 constitute a clear and immediate public safety hazard.

12 (d) Upon a showing by the owner or operator of the sport shooting range that
13 he or she has eliminated each condition identified as constituting a clear and
14 immediate public safety hazard under par. (c), the court shall lift all orders for
15 suspension or cessation of the portion of the sport shooting range's operation relating
16 to the condition.

17 (e) A court may order permanent cessation of the sport shooting range's
18 operation only upon finding that a sport shooting range refuses or is unable to comply
19 with an order under par. (c).

20 (f) If a court dismisses a petition filed by a local unit of government or an
21 individual on the grounds that the petitioner is unable to demonstrate that a portion
22 of a sport shooting range's operation constitutes a clear and immediate public safety
23 hazard, the court may order the petitioner to pay the defending party's costs of
24 litigation, including reasonable attorneys fees.

SECTION 2. Initial applicability.

