

**SENATE BILL NO. 8 am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS HALFORD, Pearce, Green, Taylor

Amended: 2/25/97

Referred: Transportation, Resources

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the noise levels of airports and sport shooting facilities."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* **Section 1.** AS 34 is amended by adding a new chapter to read:

4 **Chapter 75. Noise Levels of Sport Shooting**

5 **Facilities and Private Airport Facilities.**

6 **Sec. 34.75.010. Limitation on actions arising from noise level.** (a)

7 Notwithstanding AS 09.45.230, AS 11.61.110, and any other state or municipal law,  
8 except (b) of this section and except as may be otherwise provided by federal law, a  
9 person may not bring a civil or criminal action against a person who operates or uses  
10 a sport shooting facility or a private airport facility if the action arises out of the noise  
11 level resulting from the normal operation or use of the facility and if the facility

12 (1) was established or began operation before any noise control law  
13 applied to the facility; or

14 (2) complies with the noise control laws that applied to the facility  
15 when the facility was established or began operation.

(b) The prohibition in (a) of this section does not apply to an action that arises out of

- (1) a contract;
- (2) a personal injury suffered by a person while on the premises of the facility; or
- (3) a substantial change in the use of the facility.

(c) Except as may be otherwise provided by federal law, even if otherwise allowed by (a) and (b) of this section, a person may not bring a nuisance action for noise level against a facility located in the vicinity of the person's property if the facility was established before the person acquired the property, unless the facility substantially changes the use of the facility after the person acquires the property.

**Sec. 34.75.020. Time limitation on nuisance actions.** Except as may otherwise be provided by federal law, a person may not bring a nuisance action otherwise allowed under this chapter for the level of noise against a facility unless the action is brought within five years after the facility is established or begins operation or, if the action is brought after a substantial change in the use of the facility, within three years after the substantial change. In this section, "established" includes resuming shooting activity at a sport shooting facility if there has not been shooting activity at the facility for three or more years, or resuming airport activity at a private airport facility if there has not been airport activity at the facility for three or more years.

**Sec. 34.75.030. State and municipal regulation.** (a) Notwithstanding AS 02.15.020 and AS 02.25.020, the state or a municipality may not regulate the outdoor level of noise at a facility if the facility is exempt from a criminal or civil action under AS 34.75.010(a).

(b) Except as otherwise provided in this chapter, a municipality may regulate the noise level produced by a facility.

**Sec. 34.75.040. Construction and meaning of "substantial change in the use."** In this chapter, the phrase "substantial change in the use" shall be strictly construed to maximize the immunity from civil and criminal actions provided under AS 34.75.010 - AS 34.75.020 for sport shooting facilities and private airport facilities.

1 In this chapter, “substantial change in the use” does not include a mere increase in the  
2 frequency of flights or the number of shots.

3 **Sec. 34.75.090. Definitions.** In this chapter, unless the context indicates  
4 otherwise,

5 (1) "airport facility" means an area of land or water that is used or  
6 intended for use for the landing and takeoff of aircraft, including appurtenant areas that  
7 are used or intended for use as airport buildings or rights-of-way; in this paragraph,  
8 "aircraft" includes fixed-wing and rotor aircraft;

9 (2) "facility" means a sport shooting facility or a private airport facility;

10 (3) "law" means a state statute or regulation or an ordinance of a  
11 municipality;

12 (4) "person" includes the state, a state agency, and a municipality;

13 (5) "private" means an airport that is privately owned and operated;  
14 airports owned, operated, or leased by the state, a municipality, or a political  
15 subdivision of the state or a local government are considered public airports;

16 (6) "sport shooting facility" means real property operated for the use  
17 of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or similar  
18 activity related to sport shooting.

19 \* **Sec. 2.** AS 34.75.010, enacted by sec. 1 of this Act, does not prohibit

20 (1) the bringing of civil actions for causes of action that accrue before the  
21 effective date of this Act; or

22 (2) the prosecution of criminal actions for activity that occurs before the  
23 effective date of this Act.