

CS FOR SENATE BILL NO. 274(TRA) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Amended: 3/14/96

Offered: 2/28/96

Sponsor(s): SENATORS HALFORD, Sharp, Green

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

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

15 (2) complies with the noise control laws that applied to the facility

1 when the facility was established or began operation.

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

4 (1) a contract; or

5 (2) a personal injury suffered by a person while on the premises of the
6 facility.

7 (c) Even if otherwise allowed by (a) - (b) of this section, a person may not
8 maintain a nuisance action for noise level against a facility located in the vicinity of
9 the person's property if the facility was established before the person acquired the
10 property, unless the facility substantially changes the use of the facility after the person
11 acquires the property.

12 Sec. 34.75.020. TIME LIMITATION ON NUISANCE ACTIONS. Except as
13 may otherwise be provided by federal law, a person may not bring a nuisance action
14 otherwise allowed under this chapter for the level of noise against a facility unless the
15 action is brought within five years after the facility is established or began operation,
16 or, if the action is brought after a substantial change in the use of the facility, within
17 three years after the substantial change. In this section, "established" includes
18 resuming shooting activity at a sport shooting facility if there has not been shooting
19 activity at the facility for three years, or resuming airport activity at a private airport
20 facility if there has not been airport activity at the facility for three or more years.

21 Sec. 34.75.030. STATE AND MUNICIPAL REGULATION. (a)
22 Notwithstanding AS 02.15.020 and AS 02.25.020, the state or a municipality may not
23 regulate the outdoor level of noise at a facility if the facility is exempt from a criminal
24 or civil action under AS 34.75.010(a).

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

27 Sec. 34.75.090. DEFINITIONS. In this chapter,

28 (1) "airport facility" means an area of land or water that is used or
29 intended for use for the landing and take-off of aircraft, including appurtenant areas
30 that are used or intended for use as airport buildings or rights-of-way; in this
31 paragraph, "aircraft" includes fixed-wing and rotor aircraft;

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

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

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

5 (5) "private" means an airport owned and operated by a private
6 individual. Airports owned, operated, or leased by the State of Alaska, a home rule
7 municipality or an unincorporated city or borough, or a political subdivision of the
8 state or local government are considered public airports.

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

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

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

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