

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: H3/20/03

# A Bill

HOUSE BILL 2451

5 By: Representative Bright  
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## For An Act To Be Entitled

9 AN ACT TO LIMIT AND REGULATE THE *SITING* AND  
10 LOCATION OF SAND AND GRAVEL DREDGING AND STORAGE  
11 OPERATIONS; TO CREATE A SAFE ZONE FOR CHILDREN  
12 FROM EXPOSURE TO DUST AND AIRBORNE DEBRIS; TO  
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 TO LIMIT AND REGULATE THE *SITING* AND  
16 LOCATION OF SAND AND GRAVEL DREDGING AND  
17 STORAGE OPERATIONS AND TO CREATE A SAFE  
18 ZONE FOR CHILDREN FROM EXPOSURE TO DUST  
19 AND AIRBORNE DEBRIS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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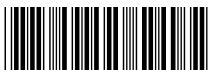
### SECTION 1. Definition.

25 As used in this act, as used "sand and gravel operations" means any  
26 sand and gravel dredging, storage, or transportation operation that removes  
27 the sand and gravel from the Arkansas River and is located along the main  
28 stream of the Arkansas River in a county with a population of two hundred  
29 fifty thousand (250,000) or more according to the latest federal decennial  
30 census.  
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### SECTION 2. Findings.

33 The Arkansas General Assembly finds that:  
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35 (1) Sand and gravel dredging, storage, loading and unloading,  
36 and transportation operations generate a tremendous amount of fine dust



1 particles and airborne debris that drifts up and away from the storage sites  
2 where the operations are taking place;

3 (2) Many recent health studies of young children and adolescents  
4 have identified an alarming rise in the number of cases of asthma and related  
5 pulmonary conditions that are caused in large part by dust particles and  
6 other fine particulate matter discharged into the atmosphere; and

7 (3) It is necessary to keep sand and gravel operations away from  
8 areas where children and other persons live and reside where they are likely  
9 to be exposed to the environmental hazards created by these sand and gravel  
10 operations.

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12 SECTION 3. Zone established.

13 (a) Notwithstanding any and all laws regarding the mining and dredging  
14 of sand and gravel, no sand and gravel operation shall be located and  
15 operated within a zone of five hundred feet (500') in any direction of a  
16 residential area or neighborhood, a school, or a child care facility.

17 (b)(1) The prohibition of subsection (a) of this section shall not  
18 apply to:

19 (A) Any activities associated with maintaining the  
20 authorized channel depth of the McClellan-Kerr Arkansas River Navigation  
21 System; or

22 (B) Any sand and gravel operation that was actively  
23 dredging, storing, or transporting sand and gravel on January 1, 2003.

24 (2) However, any expansion of a sand and gravel operation  
25 existing on January 1, 2003, shall be subject to the prohibitions of  
26 subsection (a) of this section and the other requirements of this act.

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28 SECTION 4. Enforcement.

29 (a)(1) In a municipality with a zoning ordinance, the municipality  
30 shall establish, by ordinance, a zoning requirement to create a safe zone  
31 around residential areas or neighborhoods, schools, or child care facilities  
32 of the state and a permit system for locating sand and gravel operations  
33 within the municipality to enforce the requirements of this act.

34 (2) In municipalities without a zoning ordinance, the mayor  
35 shall issue permits to sand and gravel operations only in those areas that  
36 are beyond the safe zone around residential areas or neighborhoods, schools,

1 or child care facilities.

2 (3) In the unincorporated area of a county, the county judge  
3 shall issue permits to sand and gravel operations only in those areas that  
4 are beyond the safe zone around residential areas or neighborhoods, schools,  
5 or child care facilities of the state.

6 (b) A municipality or a county shall have the authority to set and  
7 charge a permit fee to recover the cost of issuing the permits required under  
8 this section.

9 (c)(1) In areas along the Arkansas River without local zoning  
10 authority, the State Land Commissioner shall enforce this act through a lease  
11 condition for the five hundred foot (500') safe zone around residential areas  
12 or neighborhoods, schools, or child care facilities.

13 (2) The lease shall contain conditions to require the safe zone  
14 for all the land based storage, loading and unloading, and transportation  
15 facilities under the state issued lease for the extraction of sand and gravel  
16 from the bed of the Arkansas River.

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18 SECTION 5. Unlawful operation.

19 (a) It is unlawful for anyone to construct or to operate a sand and  
20 gravel operation within a given zone except in accordance with this act and  
21 permits issued for the location.

22 (b) Violation of this section is a Class A misdemeanor.

23 (c) Any person living in the zone or individual aggrieved by a  
24 violation of this act may request an injunction against any owner of a sand  
25 and gravel operation that is in violation of the act.

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27 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
28 General Assembly of the State of Arkansas that sand and gravel operations in  
29 the Arkansas River valley are increasingly located in areas that are not  
30 proper for the kinds of environmental hazards associated with those  
31 operations; that without this act, the children's health throughout this area  
32 of the state will be threatened from the continued exposure; and that this  
33 act is immediately necessary because this threat grows more profound every  
34 day. Therefore, an emergency is declared to exist and this act being  
35 immediately necessary for the preservation of the public peace, health, and  
36 safety shall become effective on:

- 1           (1) The date of its approval by the Governor;
- 2           (2) If the bill is neither approved nor vetoed by the Governor, the
- 3 expiration of the period of time during which the Governor may veto the bill;
- 4 or
- 5           (3) If the bill is vetoed by the Governor and the veto is overridden,
- 6 the date the last house overrides the veto.

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*/s/ Bright*

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