

INTERIM STUDY PROPOSAL 2009-213

State of Arkansas
87th General Assembly
First Extraordinary Session, 2010

A Bill

Call Item ##
MBM/CDS
SENATE BILL

By: Senator Altes

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT CONCERNING THE CONSTRUCTION OF MOTOR
VEHICLE RACING FACILITIES; AND FOR OTHER
PURPOSES.

Subtitle

AN ACT CONCERNING THE CONSTRUCTION OF
MOTOR VEHICLE RACING FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 8-10-302 is amended to read as follows:

8-10-302. Construction of motor vehicle racing facility - Requirement.

(a)(1) Due to the noise, air pollution, and traffic congestion caused by motor vehicle racing facilities, no motor vehicle racing facility may be constructed in this state ~~after passage of this act~~ without the consent of at least ~~seventy-five percent (75%)~~ thirty-eight percent (38%) of the property owners and ~~seventy-five percent (75%)~~ thirty-eight percent (38%) of the registered voters within three (3) miles of the outside boundary of the proposed facility.

(2)(A) Such consent shall be accomplished by signing petitions which shall be filed with the city clerk if the facility is to be located within the boundaries of any city or town or with the county clerk if the facility is to be located wholly or partially outside the boundaries of any city or town.

(B) The petitions shall indicate:

(i) The name;

(ii) The residence address or, if a nonresident property owner, the address or legal description of the property located within the three-mile area; and

(iii) The date of the signature.

(C)(i) The petitions must be verified pursuant to § 7-9-109.

(ii) Signatures shall become invalid sixty (60) days after signing.

(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the Arkansas Department of Environmental Quality.

(b) As used in this section, "motor vehicle racing facility" means any facility designed and used for competitive racing by automobiles or trucks which are modified for racing.

SECTION 2. Arkansas Code § 8-10-303 is repealed.

~~8-10-303. Permit requirement.~~

~~(a)(1)(A) Due to the noise pollution and air pollution from the racing vehicles and traffic congestion caused by motor vehicle racing facilities, no motor vehicle racing facility shall be constructed in this state after passage of this section without the consent of at least seventy five percent (75%) of the property owners and seventy five percent (75%) of the registered voters within three (3) miles of the outside boundary of the proposed facility and without an annual permit issued by the Arkansas Department of Environmental Quality.~~

~~(B) The consent shall be required for the initial annual permit only.~~

~~(2)(A) Consent shall be accomplished by signing petitions which shall be filed with the city clerk if the facility is to be located within the boundaries of any city or town or with the county clerk if the facility is to be located wholly or partially outside the boundaries of any city or town.~~

~~(B) The petitions shall indicate:~~

~~(i) The name;~~
~~(ii) The residence address or, if a nonresident property owner, the address or legal description of the property located within the three-mile area; and~~
~~(iii) The date of the signature.~~
~~(C)(i) The petitions must be verified pursuant to § 7-9-109.~~
~~(ii) Signatures shall become invalid sixty (60) days after signing.~~
~~(iii) It shall be the duty of the county clerk or city clerk, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency or insufficiency of the signatures in writing to the department.~~
~~(3)(A)(i) Once the sufficiency of the petitions is determined, the persons or entity proposing and constructing a motor vehicle racing facility after August 1, 1997, shall seek the approval of and issuance of an annual permit from the department. The department's approval shall be sought by filing a permit application with the department.~~
~~(ii) Initial permit applications for new facilities to be constructed shall have attached a written proposal for the motor vehicle facility containing the substance of the proposed facility, including:~~
~~(a) A description of the types of motor vehicles proposed for racing at the facility;~~
~~(b) The maximum projected noise level of the racing vehicles;~~
~~(c) A description of the kinds of races and the types of buildings, stands, or other physical plant proposed for the facility;~~
~~(d) Estimates of traffic counts and numbers of spectators; and~~
~~(e) Any other relevant permit information as may be determined necessary for the permit application by the department.~~
~~(B) For the initial permit application for new facilities to be constructed, the department shall conduct a public hearing on the proposed motor vehicle racing facility. The department shall set a date for the public hearing to be held on the proposed facility permit which shall not~~

1 ~~be less than thirty (30) days after the filing of the initial permit~~
2 ~~application. The hearing under subdivision (a)(3)(B) of this section for the~~
3 ~~initial permit may be adjourned and continued if necessary. In its~~
4 ~~discretion, the department may hold public hearings for the renewal of any~~
5 ~~permits as is necessary. Any interested persons may appear and contest the~~
6 ~~granting of the approval or renewal of the facility permit. Affidavits in~~
7 ~~support of or against the proposed facility or a permit renewal, which may be~~
8 ~~prepared and submitted, shall be examined by the department.~~

9 ~~(C) After the hearing for the initial permit or upon~~
10 ~~application for the renewal of its annual permit, if the department shall be~~
11 ~~satisfied that the benefits of the motor vehicle racing facility are~~
12 ~~sustained by proof and outweigh its impact by the noise, air pollution, and~~
13 ~~traffic congestion caused by motor vehicle racing facilities, then the~~
14 ~~department shall grant the initial permit approving the proposed facility or~~
15 ~~shall renew approval to the permitted or existing facility. Renewal of an~~
16 ~~annual permit may also be denied if:~~

17 ~~(i) The racing facility is determined to be in~~
18 ~~violation of any standards under which the permit was issued;~~

19 ~~(ii) The racing facility is constructed or is being~~
20 ~~operated in a manner which is materially different than was represented~~
21 ~~during the petition process; or~~

22 ~~(iii) Fraud, misrepresentation, or false statement~~
23 ~~of facts was used to obtain signatures for the petition process.~~

24 ~~(D) If any material changes, additions, or improvements~~
25 ~~are made to the motor vehicle racing facility, the permit shall be amended~~
26 ~~accordingly, and the department may reconsider the approval of the permit.~~

27 ~~(E) The Arkansas Pollution Control and Ecology Commission~~
28 ~~shall have the authority to promulgate all necessary rules and regulations to~~
29 ~~implement this section, including the authority to set a permit fee to~~
30 ~~recover the cost of issuing the permit.~~

31 ~~(b) As used in this section, "motor vehicle racing facility" means any~~
32 ~~facility designed and used for competitive racing by automobiles or trucks~~
33 ~~which are modified for racing.~~

34 ~~(c) Within one (1) year of August 1, 1999, each motor vehicle racing~~
35 ~~facility constructed in Arkansas after January 1, 1995, shall apply for and~~
36 ~~shall receive an initial annual permit to operate its motor vehicle racing~~

1 ~~facility. Thereafter, upon the annual renewal date for its permit, the motor~~
2 ~~vehicle racing facility constructed after January 1, 1995, shall apply~~
3 ~~annually for renewal of its permit.~~

36 Filed Date: 02/05/2010 By: MBM\CDS