

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Second Extraordinary Session, 1994**  
4 **By: Representative Mullenix**

**Call Item 37**

# **A Bill**

**HOUSE BILL 1026**

## **For An Act To Be Entitled**

8 "AN ACT TO AMEND VARIOUS SECTIONS OF SUBCHAPTER 1 OF TITLE  
9 27, CHAPTER 49, OF THE ARKANSAS CODE OF 1987, ANNOTATED,  
10 TO AUTHORIZE THE ENFORCEMENT OF STATE AND LOCAL TRAFFIC  
11 LAWS AND REGULATIONS ON PRIVATE ROADWAYS OF A *PLANNED*  
12 *COMMUNITY*; TO DECLARE AN EMERGENCY; AND FOR OTHER  
13 PURPOSES."

### **Subtitle**

14  
15 "TO AUTHORIZE THE ENFORCEMENT OF STATE  
16 AND LOCAL TRAFFIC LAWS AND REGULATIONS  
17 ON PRIVATE ROADWAYS *IN PLANNED*  
18 *COMMUNITIES*"

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

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23 SECTION 1. Arkansas Code § 27-49-102 is amended to read as follows:

24 "27-49-102. Applicability to operation on highways - Exceptions.

25 The provisions of this subtitle relating to the operation of vehicles  
26 refer exclusively to the operation of vehicles upon highways except:

27 (1) Where a different place is specifically referred to in a given  
28 section.

29 (2) The provisions of §§ 27-50-307, 27-50-308, 27-53-101 - 27-53-105,  
30 and 27-53-201 - 27-53-208 shall apply upon highways and elsewhere throughout  
31 the state.

32 (3) Where the owner of a private roadway *within a planned community in*  
33 *Arkansas* grants express permission for the state and local law enforcement  
34 authorities to enter on and to enforce the provisions of this subtitle and  
35 other traffic laws of the state or local authorities on those private roadways

1 in the planned community."

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3 SECTION 2. Arkansas Code § 27-49-106 is amended to read as follows:

4 "27-49-106. Powers of local authorities.

5 (a) (1) No local authority shall enact or enforce any rule or  
6 regulations in conflict with the provisions of this subtitle unless expressly  
7 authorized in this subtitle.

8 (2) Local authorities may, however, adopt additional traffic  
9 regulations which are not in conflict with the provisions of this subtitle.

10 (3) Local authorities may enact and enforce traffic rules and  
11 regulations which are not in conflict with the provisions of this subtitle for  
12 private roadways, but only after being granted express permission by the owner  
13 of the private roadway *within the planned community*.

14 (b) The provisions of this subtitle shall not be deemed to prevent  
15 local authorities with respect to streets and highways under their  
16 jurisdiction and within the reasonable exercise of the police power from:

17 (1) Regulating the standing or parking of vehicles;

18 (2) Regulating traffic by means of police officers or traffic  
19 control signals;

20 (3) Regulating or prohibiting processions or assemblages on the  
21 highways;

22 (4) Designating particular highways as one-way highways and  
23 requiring that all vehicles thereon be moved in one specific direction;

24 (5) Regulating the speed of vehicles in public parks;

25 (6) Designating any highway as a through highway and requiring  
26 that all vehicles stop before entering or crossing it, or designating any  
27 intersection as a stop intersection and requiring all vehicles to stop at one  
28 (1) or more entrances to such intersections;

29 (7) Restricting the use of highways as authorized in §§ 27-35-101  
30 - 27-35-111;

31 (8) Regulating or prohibiting the traffic from and use of mopeds,  
32 three-wheeled vehicles, and other similar vehicles.

33 (c) No ordinance or regulation enacted under subdivisions (b) (4), (5),  
34 (6), or (7) of this section shall be effective until signs giving notice of  
35 local traffic regulations are posted upon or at the entrances to the highways

1 or part affected as may be most appropriate.

2 (d) No provision of this subtitle or other state traffic laws or any  
3 local traffic ordinance or regulation enacted under authority of subdivision  
4 (a) (3) of this section shall be effective on a private roadway of a *planned*  
5 *community* until signs giving notice of the owner\_s grant of permission to  
6 enforce those state and local traffic regulations are posted upon or at the  
7 entrances to the *planned community's* private roadways or parts thereof  
8 affected."

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10 SECTION 3. Arkansas Code § 27-49-112 is amended to read as follows:

11 "27-49-112. No interference with rights of real property owners.

12 (a) Nothing in this subtitle shall be construed to prevent the owner of  
13 real property used by the public for purposes of vehicular travel by  
14 permission of the owner and not as matter of right from prohibiting such use,  
15 or from requiring other or different or additional conditions than those  
16 specified in this subtitle, or otherwise regulating such use as may seem best  
17 to such owner.

18 (b) Nothing in this subtitle shall be construed to prevent the owner of  
19 a private roadway *in a planned community* having granted express permission for  
20 the state and local law enforcement authorities to enter on and to enforce the  
21 state and local traffic laws from revoking the permission and notifying the  
22 state and local authorities of the revocation of the permission."

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24 SECTION 4. All provisions of this act of general and permanent nature  
25 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
26 Revision Commission shall incorporate the same in the Code.

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28 SECTION 5. If any provisions of this act or the application thereof to  
29 any person or circumstance is held invalid, the invalidity shall not affect  
30 other provisions or applications of the act which can be given effect without  
31 the invalid provisions or application, and to this end the provisions of this  
32 act are declared to be severable.

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34 SECTION 6. All laws and parts of laws in conflict with this act are  
35 hereby repealed.

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SECTION 7. Emergency. It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas meeting in the Second Extraordinary Session of 1994 that current Arkansas laws regarding the enforcement of traffic laws prevent law enforcement officers from issuing traffic tickets on private roadways; that, in some cases, the private road ownership exceeds several hundred miles of private roads and the private owners wish to have state and local traffic laws enforced on those private roads; and that a lack of law enforcement jurisdiction on private roads, especially where the ownership exceeds several hundred miles, presents a danger to the public safety. Therefore, in order to reduce the threat to the safety of the motoring public, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

*/s/Rep. T. Mullenix*

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