

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

State of Arkansas

As Engrossed: S2/11/99 H2/25/99

82nd General Assembly

A Bill

Regular Session, 1999

SENATE BILL 408

By: Senator Scott

By: Representative Angel

For An Act To Be Entitled

"AN ACT TO CLARIFY THE LAW REGARDING MOTOR VEHICLE
RACING FACILITIES; AND FOR OTHER PURPOSES. "

Subtitle

"AN ACT TO CLARIFY THE LAW REGARDING
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%) of the property owners and seventy-five percent (75%) of the adult residents 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)(a) The residence address; or

(b) If a nonresident property owner, the

1 address or legal description of the property located within the three-mile
2 area; and

3 (iii) The date of the signature.

4 (C)(i) The petitions must be verified pursuant to § 7-9-
5 109.

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

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

12 (b) For purposes of this section, 'motor vehicle racing facility' means
13 ~~every motor vehicle defined by § 8-9-402~~ any facility designed and used for
14 competitive racing by automobiles or trucks which are modified for racing."
15

16 SECTION 2. Arkansas Code 8-10-303 is amended to read as follows:

17 "8-10-303. Permit requirement.

18 (a)(1) Due to the noise pollution and air pollution from the racing
19 vehicles and traffic congestion caused by motor vehicle racing facilities, no
20 motor vehicle racing facility shall be constructed in this state after passage
21 of this section without the consent of at least seventy-five percent (75%) of
22 the property owners and seventy-five percent (75%) of the adult residents
23 within three (3) miles of the outside boundary of the proposed facility and
24 without an annual permit issued by the ~~Arkansas Department of Pollution~~
25 ~~Control and Ecology~~ Arkansas Department of Environmental Quality. The consent
26 shall be required for the initial annual permit only.

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

31 (B) The petitions shall indicate:

32 (i) The name;

33 (ii)(a) The residence address; or

34 (b) If a nonresident property owner, the
35 address or legal description of the property located within the three-mile
36 area; and

1 (iii) The date of the signature.

2 (C)(i) The petitions must be verified pursuant to § 7-9-
3 109.

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

6 (iii) It shall be the duty of the county clerk or
7 city clerk, as the case may be, to determine the sufficiency of the signatures
8 and to certify the sufficiency or insufficiency of the signatures in writing
9 to the department.

10 (3)(A) Once the sufficiency of the petitions is determined, the
11 persons or entity proposing and constructing a motor vehicle racing facility
12 after August 1, 1997, shall seek the approval of and issuance of an annual
13 permit from ~~of the Arkansas Pollution Control and Ecology Department~~ Arkansas
14 Department of Environmental Quality. The department's approval shall be sought
15 by filing a permit application with the department. Initial permit
16 applications for new facilities to be constructed shall have attached a
17 written proposal for the motor vehicle facility containing the substance of
18 the proposed facility, including a description of the types of motor vehicles
19 proposed for racing at the facility, the maximum projected noise level of the
20 racing vehicles, a description of the kinds of races, the types of buildings,
21 stands, or other physical plant proposed for the facility, estimates of
22 traffic counts and numbers of spectators, and any other relevant permit
23 information as may be determined necessary for the permit application by the
24 department.

25 (B) For the initial permit application for new facilities
26 to be constructed, the department shall conduct a public hearing on the
27 proposed motor vehicle racing facility. The department shall set a date for
28 the public hearing to be held on the proposed facility permit which shall not
29 be less than thirty (30) days after the filing of the initial permit
30 application. The hearing under this subdivision for the initial permit may be
31 adjourned and continued if necessary. The department may, in its discretion,
32 hold public hearings for the renewal of any permits as is necessary. Any
33 interested persons may appear and contest the granting of the approval or
34 renewal of the facility permit. Affidavits in support of or against the
35 proposed facility or a permit renewal, which may be prepared and submitted,
36 shall be examined by the department.

1 (C) After the hearing for the initial permit or upon
2 application for the renewal of its annual permit, if the department shall be
3 satisfied that the benefits of the motor vehicle racing facility are sustained
4 by proof and outweigh its impact by the noise, air pollution, and traffic
5 congestion caused by motor vehicle racing facilities, then the department
6 shall grant the initial permit approving the proposed facility or shall renew
7 approval to the permitted or existing facility. Renewal of an annual permit
8 may also be denied if:

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

11 (ii) The racing facility is constructed or is being
12 operated in a manner which is materially different than was represented during
13 the petition process;

14 (iii) Fraud, misrepresentation, or false statement of
15 facts were used to obtain signatures for the petition process.

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

19 (E) The Arkansas Pollution Control and Ecology Commission
20 shall have the authority to promulgate any and all necessary rules and
21 regulations to implement this section, including the authority to set a permit
22 fee to recover the cost of issuing the permit.

23 (b) For the purposes of this section, 'motor vehicle racing facility'
24 means ~~every motor vehicle as defined by § 8-9-402~~ any facility designed and
25 used for competitive racing by automobiles or trucks which are modified for
26 racing.

27 (c) Within one (1) year of August 1, ~~1997~~ 1999, each motor vehicle
28 racing facility constructed in Arkansas after ~~July~~ January 1, 1995 shall apply
29 for and shall receive an initial annual permit to operate its motor vehicle
30 racing facility. Thereafter, upon the annual renewal date for its permit, the
31 motor vehicle racing facility constructed after ~~July 1, 1995~~ January 1, 1995
32 shall apply annually for renewal of its ~~annual~~ permit ~~in accordance with all~~
33 ~~other requirements of this section.~~

34
35 SECTION 3. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

Revision Commission shall incorporate the same in the Code.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Scott, et al