

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 83rd General Assembly  
3 Regular Session, 2001

# A Bill

SENATE BILL 76

4  
5 By: Senator Hoofman  
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## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 14, CHAPTER 16 TO  
10 ADD A SUBCHAPTER 8 TO AUTHORIZE COUNTY GOVERNMENTS TO  
11 ISSUE PERMITS FOR THE CONSTRUCTION AND OPERATION OF  
12 MOTOR VEHICLE RACING FACILITIES; TO REPEAL ARKANSAS  
13 CODE 8-10-302 AND 8-10-303, REQUIRING THE DEPARTMENT  
14 OF ENVIRONMENTAL QUALITY TO REGULATE RACING  
15 FACILITIES; AND FOR OTHER PURPOSES.  
16

## Subtitle

17 TO AUTHORIZE COUNTY GOVERNMENTS TO ISSUE  
18 PERMITS FOR THE CONSTRUCTION OF MOTOR  
19 VEHICLE RACING FACILITIES AND REPEAL THE  
20 CURRENT REGULATION OF THOSE FACILITIES.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code Title 14, Chapter 16, is amended to add an  
27 additional subchapter to read as follows:

### SUBCHAPTER 8 - MOTOR VEHICLE RACING FACILITIES

29 14-16-801. Permits required for motor vehicle racing facilities.

30 (a) Due to potential traffic congestion caused by motor vehicle racing  
31 facilities, a motor vehicle racing facility shall not be constructed or begin  
32 operation in this state without a permit issued by the county judge of the  
33 county in which a proposed facility is to be located.

34 (b)(1) Prior to any persons or entity proposing and constructing a  
35 motor vehicle racing facility, the person or entity shall seek the approval of  
36 and issuance of a permit from the county judge of the county in which the

1 facility is proposed to be located.

2 (2) The county judge's approval shall be sought by filing a  
3 permit application with the county clerk which shall be forwarded to the  
4 county court to set the time for a public hearing on the permit application.

5 (3) Initial permit applications for new facilities to be  
6 constructed shall have attached a written proposal for the motor vehicle  
7 facility containing the substance of the proposed facility, including:

8 (A) A description of the types of motor vehicles proposed  
9 for racing at the facility;

10 (B) A description of the kinds of races, the types of  
11 buildings, stands, or other physical plant proposed for the facility;

12 (C) Estimates of traffic counts and numbers of spectators;

13 (D) Any other relevant permit information as may be  
14 determined necessary for the permit application by the county judge.

15  
16 14-16-802. Public hearing.

17 (a) For the initial permit application for new facilities to be  
18 operated or constructed, the county judge shall conduct a public hearing on  
19 the proposed motor vehicle racing facility.

20 (b) The public hearing on the proposed facility permit shall not be  
21 less than thirty (30) days, nor more than ninety (90) days, after the filing  
22 of the initial permit application and may be adjourned and continued if  
23 necessary.

24 (c) The county judge may, within the judge's own discretion, hold  
25 public hearings for the renewal of any permits as is necessary.

26 (d) Any interested persons may appear and contest the granting of the  
27 approval or renewal of the facility permit, and the county judge shall examine  
28 affidavits in support of or against the proposed facility or a permit renewal,  
29 which may be prepared and submitted by any interested persons.

30  
31 14-16-803. Permit issued or renewed.

32 (a) After the hearing for the initial permit or upon application for  
33 the renewal of its permit, if the county judge shall decide that the permit  
34 application is complete and that it shall be deemed right and proper, in the  
35 judge's discretion, that the application shall be granted, then the county  
36 judge shall grant the initial permit approving the proposed facility or shall

renew approval to the previously permitted existing facility for a period of time of not less than three (3) years, nor more than five (5) years.

(b) Renewal of permit may also be denied if:

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

(2) The racing facility is constructed or is being operated in a manner which is materially different than was represented during the permit application or renewal process; or

(3) Fraud, misrepresentation, or false statement of facts were made during the permit application or renewal process.

(c) Any material changes, additions, or improvements made to the motor vehicle racing facility shall be reported to the county judge.

14-16-804. County judge to set permit fee.

(a) The county judge shall have the authority to promulgate any and all necessary rules and regulations to implement this subchapter, including the authority to set a permit fee to recover the cost of issuing the permits and holding hearings.

(b) However, the permit fee for a motor vehicle racing facility shall not exceed five hundred dollars (\$500.00) per year for each year for which the permit is issued or renewed.

(c) Motor vehicle racing facility permit fees shall be deposited in the county general fund.

14-16-805. Motor vehicle racing facility defined.

(a) For purposes of this subchapter, "motor vehicle racing facility" means any facility designed and used for competitive racing by automobiles or trucks which are modified for racing.

(b) However, "motor vehicle racing facility" shall not include any facilities used for racing motorcycles, motor-driven cycles, all-terrain vehicles, or any other motor vehicles under five hundred (500) pounds in gross vehicle weight.

SECTION 2. Arkansas Code 8-10-302 is repealed.

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

~~(a)(1) Due to the noise, air pollution, and traffic congestion caused~~

1 ~~by motor vehicle racing facilities, no motor vehicle racing facility may be~~  
 2 ~~constructed in this state after passage of this act without the consent of at~~  
 3 ~~least seventy five percent (75%) of the property owners and seventy five~~  
 4 ~~percent (75%) of the adult residents within three (3) miles of the outside~~  
 5 ~~boundary of the proposed facility.—~~

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

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

12 ~~(i) The name;—~~

13 ~~(ii)(a) The residence address; or—~~

14 ~~(b) If a nonresident property owner, the~~  
 15 ~~address or legal description of the property located within the three mile~~  
 16 ~~area; and—~~

17 ~~(iii) The date of the signature.—~~

18 ~~(C)(i) The petitions must be verified pursuant to § 7-9-~~  
 19 ~~109.—~~

20 ~~(ii) Signatures shall become invalid sixty (60) days~~  
 21 ~~after signing.—~~

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

26 ~~(b) For purposes of this section, "motor vehicle racing facility" means~~  
 27 ~~any facility designed and used for competitive racing by automobiles or trucks~~  
 28 ~~which are modified for racing.—~~

30 SECTION 3. Arkansas Code 8-10-303 is repealed.

31 ~~8-10-303. Permit requirement.—~~

32 ~~(a)(1)(A) Due to the noise pollution and air pollution from the racing~~  
 33 ~~vehicles and traffic congestion caused by motor vehicle racing facilities, no~~  
 34 ~~motor vehicle racing facility shall be constructed in this state after passage~~  
 35 ~~of this section without the consent of at least seventy five percent (75%) of~~  
 36 ~~the property owners and seventy five percent (75%) of the adult residents~~

1 within three (3) miles of the outside boundary of the proposed facility and  
 2 without an annual permit issued by the Arkansas Department of Environmental  
 3 Quality.—

4 (B) The consent shall be required for the initial annual  
 5 permit only.—

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

10 (B) The petitions shall indicate:—

11 (i) The name;—

12 (ii)(a) The residence address; or—

13 (b) If a nonresident property owner, the  
 14 address or legal description of the property located within the three-mile  
 15 area; and—

16 (iii) The date of the signature.—

17 (C)(i) The petitions must be verified pursuant to § 7-9-  
 18 109.—

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

21 (iii) It shall be the duty of the county clerk or  
 22 city clerk, as the case may be, to determine the sufficiency of the signatures  
 23 and to certify the sufficiency or insufficiency of the signatures in writing  
 24 to the department.—

25 (3)(A) Once the sufficiency of the petitions is determined, the  
 26 persons or entity proposing and constructing a motor vehicle racing facility  
 27 after August 1, 1997, shall seek the approval of and issuance of an annual  
 28 permit from the department. The department's approval shall be sought by  
 29 filing a permit application with the department. Initial permit applications  
 30 for new facilities to be constructed shall have attached a written proposal  
 31 for the motor vehicle facility containing the substance of the proposed  
 32 facility, including a description of the types of motor vehicles proposed for  
 33 racing at the facility, the maximum projected noise level of the racing  
 34 vehicles, a description of the kinds of races, the types of buildings, stands,  
 35 or other physical plant proposed for the facility, estimates of traffic counts  
 36 and numbers of spectators, and any other relevant permit information as may be

1 ~~determined necessary for the permit application by the department.—~~

2 ~~(B) For the initial permit application for new facilities~~  
 3 ~~to be constructed, the department shall conduct a public hearing on the~~  
 4 ~~proposed motor vehicle racing facility. The department shall set a date for~~  
 5 ~~the public hearing to be held on the proposed facility permit which shall not~~  
 6 ~~be less than thirty (30) days after the filing of the initial permit~~  
 7 ~~application. The hearing under subdivision (a)(3)(B) of this section for the~~  
 8 ~~initial permit may be adjourned and continued if necessary. The department~~  
 9 ~~may, in its discretion, hold public hearings for the renewal of any permits as~~  
 10 ~~is necessary. Any interested persons may appear and contest the granting of~~  
 11 ~~the approval or renewal of the facility permit. Affidavits in support of or~~  
 12 ~~against the proposed facility or a permit renewal, which may be prepared and~~  
 13 ~~submitted, shall be examined by the department.—~~

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

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

24 ~~(ii) The racing facility is constructed or is being~~  
 25 ~~operated in a manner which is materially different than was represented during~~  
 26 ~~the petition process; or—~~

27 ~~(iii) Fraud, misrepresentation, or false statement of~~  
 28 ~~facts were used to obtain signatures for the petition process.—~~

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

32 ~~(E) The Arkansas Pollution Control and Ecology Commission~~  
 33 ~~shall have the authority to promulgate any and all necessary rules and~~  
 34 ~~regulations to implement this section, including the authority to set a permit~~  
 35 ~~fee to recover the cost of issuing the permit.—~~

36 ~~(b) For the purposes of this section, "motor vehicle racing facility"~~

1 ~~means any facility designed and used for competitive racing by automobiles or~~  
2 ~~trucks which are modified for racing.~~

3 ~~(c) Within one (1) year of August 1, 1999, each motor vehicle racing~~  
4 ~~facility constructed in Arkansas after January 1, 1995, shall apply for and~~  
5 ~~shall receive an initial annual permit to operate its motor vehicle racing~~  
6 ~~facility. Thereafter, upon the annual renewal date for its permit, the motor~~  
7 ~~vehicle racing facility constructed after January 1, 1995, shall apply~~  
8 ~~annually for renewal of its permit.~~

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