

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

# A Bill

HOUSE BILL 1607

4  
5 By: Representative S. Meeks  
6 By: Senator Irvin

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS NIGHTTIME ENVIRONMENT  
10 PROTECTION ACT; TO REPEAL THE SHIELDED OUTDOOR  
11 LIGHTING ACT; AND FOR OTHER PURPOSES.

## Subtitle

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14 TO CREATE THE ARKANSAS NIGHTTIME  
15 ENVIRONMENT PROTECTION ACT; AND TO REPEAL  
16 THE SHIELDED OUTDOOR LIGHTING ACT.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. DO NOT CODIFY. Findings.

23 The General Assembly finds that:

24 (1) Street lighting that is used excessively and inefficiently  
25 is not a cost-effective use of taxpayer money;

26 (2)(A) Light pollution generated by street lighting systems has  
27 been implicated in disruption of the human and animal circadian rhythm and  
28 strongly suspected as an etiology of suppressed melatonin production,  
29 depressed immune systems, and increases in certain cancer rates, while  
30 disability glare poses safety risks, especially for the elderly.

31 (B) The findings set out in subdivision (2)(A) of this  
32 section prompted the American Medical Association in June 2009 to adopt a  
33 resolution advocating the reduction of light pollution and glare through the  
34 use of energy-efficient shielded lighting, and in 2016 the American Medical  
35 Association advocated avoiding outdoor lighting with high levels of blue  
36 light; and



1 (3) It is in the public interest to set standards for outdoor  
2 night lighting fixtures to promote safety, conserve energy, save tax dollars,  
3 and preserve the state's natural nighttime environment for the health and  
4 welfare of the state's citizens and wildlife.

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6 SECTION 2. Arkansas Code Title 8, Chapter 14, is repealed.

7 CHAPTER 14

8 ~~SHIELDED OUTDOOR LIGHTING ACT~~

9  
10 ~~8-14-101. Title.~~

11 ~~This chapter shall be known and may be cited as the "Shielded Outdoor~~  
12 ~~Lighting Act".~~

13  
14 ~~8-14-102. Purpose.~~

15 ~~The purpose of this chapter is to conserve energy and preserve the~~  
16 ~~environment through the regulation of outdoor lighting fixtures.~~

17  
18 ~~8-14-103. Definitions.~~

19 ~~As used in this chapter:~~

20 ~~(1) "Outdoor lighting fixture" means an automatically~~  
21 ~~controlled, outdoor artificial illuminating device, whether permanent or~~  
22 ~~portable, used for illumination or advertisement, including searchlights,~~  
23 ~~spotlights, and floodlights, whether for architectural lighting, parking lot~~  
24 ~~lighting, landscape lighting, billboards, or street lighting; and~~

25 ~~(2) "Shielded" means a fixture that is covered in a manner that~~  
26 ~~light rays emitted by the fixture, either directly from the lamp or~~  
27 ~~indirectly from the fixture, are projected below a horizontal plane running~~  
28 ~~through the lowest point on the fixture where light is emitted.~~

29  
30 ~~8-14-104. Shielding—Prohibitions—Exemptions.~~

31 ~~(a)(1)(A) No public funds shall be used to install an outdoor lighting~~  
32 ~~fixture unless it is shielded.~~

33 ~~(B) Subdivision (a)(1)(A) of this section does not apply~~  
34 ~~to any municipality or county if the governing body of the municipality or~~  
35 ~~county determines by ordinance or to a municipally owned utility if the~~  
36 ~~municipal employee responsible for procurement determines that the cost of~~

1 ~~acquiring a shielded outdoor lighting fixture will be prohibitive after~~  
 2 ~~comparing:~~

3 ~~(i) The cost of the fixtures; and~~

4 ~~(ii) The projected energy cost of the operation of~~  
 5 ~~the fixtures.~~

6 ~~(2) The Division of Environmental Quality shall promulgate rules~~  
 7 ~~prohibiting any person or entity from knowingly placing or disposing of the~~  
 8 ~~bulb or tube portion of an electric lighting device containing hazardous~~  
 9 ~~levels of mercury in a landfill if:~~

10 ~~(A) The electric lighting device contains more than two-~~  
 11 ~~tenths milligram per liter (0.2 mg/l) of leachable mercury as measured by the~~  
 12 ~~Toxicity Characteristic Leaching Procedure as set out in United States~~  
 13 ~~Environmental Protection Agency Test Method 1311; and~~

14 ~~(B) Adequate facilities exist for the public to properly~~  
 15 ~~dispose of the electric lighting device described in subdivision (a)(2)(A) of~~  
 16 ~~this section.~~

17 ~~(3)(A) Each electric public utility shall offer a shielded~~  
 18 ~~lighting service option.~~

19 ~~(B) Each electric public utility shall file an application~~  
 20 ~~with the Arkansas Public Service Commission to establish a schedule of rates~~  
 21 ~~and charges for the provision of a shielded lighting service option to the~~  
 22 ~~utility's customers.~~

23 ~~(C) The commission shall require each electric public~~  
 24 ~~utility to inform its customers of the availability of the shielded lighting~~  
 25 ~~service.~~

26 ~~(b) This chapter does not apply to acquisitions of:~~

27 ~~(1) Incandescent outdoor lighting fixtures of one hundred fifty~~  
 28 ~~watts (150 W) or less or other light sources of seventy watts (70 W) or less;~~

29 ~~(2) Outdoor lighting fixtures on advertisement signs on~~  
 30 ~~interstate or federal primary highways;~~

31 ~~(3)(A) Outdoor lighting fixtures existing and legally installed~~  
 32 ~~before August 12, 2005.~~

33 ~~(B) However, if an existing outdoor lighting fixture~~  
 34 ~~exempted from this chapter under subdivision (b)(3)(A) of this section needs~~  
 35 ~~to be replaced, the acquisition of the replacement outdoor lighting fixture~~  
 36 ~~shall be subject to the provisions of this chapter;~~

1           ~~(4) Navigational lighting systems at airports or other lighting~~  
2 ~~necessary for aircraft safety; and~~

3           ~~(5) Outdoor lighting fixtures that are necessary for worker~~  
4 ~~safety at farms, ranches, dairies, or feedlots or industrial, mining, or oil~~  
5 ~~and gas facilities.~~

6           ~~(c) This chapter does not apply to outdoor lighting fixtures~~  
7 ~~maintained or installed by:~~

- 8           ~~(1) A public school district;~~
- 9           ~~(2) A correctional facility;~~
- 10          ~~(3) A juvenile detention facility;~~
- 11          ~~(4) An adult detention facility;~~
- 12          ~~(5) A mental health facility; or~~
- 13          ~~(6) A state-supported institution of higher education.~~

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15       ~~8-14-105. Penalties.~~

16       ~~Violations of this chapter are punishable by:~~

- 17          ~~(1) A warning for a first offense; and~~
- 18          ~~(2) A fine of twenty-five dollars (\$25.00) minus the replacement~~  
19 ~~cost for each offending outdoor lighting fixture for a second or subsequent~~  
20 ~~offense or for an offense that continues for thirty (30) calendar days from~~  
21 ~~the date of the warning.~~

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23       ~~8-14-106. Enforcement.~~

24       ~~This chapter may be enforced by a town, city, or county of this state~~  
25 ~~by seeking injunctive relief in a court of competent jurisdiction.~~

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27       ~~8-14-107. Provisions supplemental.~~

28       ~~The provisions of this chapter are cumulative and supplemental and~~  
29 ~~shall not apply within a town, city, or county of this state that by~~  
30 ~~ordinance has adopted provisions restricting light pollution that are equal~~  
31 ~~to or more stringent than the provisions of this chapter.~~

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33       SECTION 3. Arkansas Code Title 8 is amended to add an additional  
34 chapter to read as follows:

35                               CHAPTER 16

36                               ARKANSAS NIGHTTIME ENVIRONMENT PROTECTION ACT

1  
2 8-16-101. Title.

3 This chapter shall be known and may be cited as the "Arkansas Nighttime  
4 Environment Protection Act".

5  
6 8-16-102. Purpose.

7 The purpose of this chapter is to regulate lighting systems to promote  
8 safety, conserve energy, save tax dollars, and preserve the state's natural  
9 nighttime environment.

10  
11 8-16-103. Definitions.

12 As used in this chapter:

13 (1) "Governing body" means an agency director for a state level  
14 entity and the legislative body for a county or municipality;

15 (2) "Fixture" means a complete lighting unit with an initial  
16 rating of one thousand eight hundred lumens (1,800 lm) or more, including  
17 without limitation a light source together with the parts designed to  
18 distribute the light, to position and protect the light source, and to  
19 connect the light source to the power supply;

20 (3) "Full cutoff" means a fixture does not allow more than two  
21 percent (2%) light emissions, either directly from a light source or  
22 indirectly by reflection or refraction from any part of the lighting unit,  
23 above a horizontal plane running through the lowest point on the fixture  
24 where light is emitted;

25 (4) "Illuminance" means the level of light measured on an  
26 intercepting surface;

27 (5) "Light pollution" means general sky glow caused by the  
28 scattering of artificial light in the atmosphere;

29 (6) "Light trespass" means excessive or unreasonable light  
30 emitted by a fixture that shines beyond the boundaries of the property on  
31 which the fixture is located; and

32 (7) "Lighting system" means a group of adjoining lighting  
33 fixtures that are substantially identical and are:

34 (A) On the same street; or

35 (B) On the same property.

36

1           8-16-104. Regulations for outdoor illumination.

2           (a) A state agency, public corporation, county, municipality, or  
3 electric utility shall not install, or cause to be installed, a new or  
4 replacement lighting system unless the following conditions are met:

5                 (1) The fixtures making up the lighting system are full cutoff  
6 fixtures;

7                 (2) The illuminance of a surface does not exceed what is  
8 adequate for that purpose under guidelines recommended for that purpose by  
9 the Illuminating Engineering Society, as the guidelines existed on January 1,  
10 2023, or the minimum illuminance recommendation for that purpose by the  
11 United States Department of Transportation, as the minimum illuminance  
12 recommendation existed on January 1, 2023;

13                 (3) Consideration has been given to minimizing glare, light  
14 pollution, and light trespass and to reducing energy use; and

15                 (4) The color temperature is three thousand kelvin (3,000 K) or  
16 less for all areas unless a recognized standard or practice requires  
17 otherwise.

18           (b) Unless requested by the property owner, an electric utility shall  
19 not install a permanent outdoor fixture for new or replacement residential  
20 security or area lighting unless the permanent outdoor fixture is a full  
21 cutoff fixture and the color temperature is two thousand seven hundred kelvin  
22 (2,700 K) or less.

23           (c) An entity that installs new or replacement lighting system on  
24 behalf of or that will become the responsibility of a state agency, public  
25 corporation, county, or municipality shall comply with subsection (a) of this  
26 section.

27  
28           8-16-105. Enforcement.

29           (a) This chapter may be enforced by a city or municipality by seeking  
30 relief in a court of competent jurisdiction.

31           (b) If a city or municipality presents sufficient evidence in an  
32 action under subsection (a) of this section, the court may compel the  
33 electric utility to replace a fixture with a fixture meeting the standards of  
34 this chapter at the electric utility's cost.

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36           8-16-106. Exemptions.

1 Section 8-16-104 does not apply if:

2 (1) A federal law, rule, or regulation preempts § 8-16-104;

3 (2)(A) There are special lighting requirements, including  
 4 without limitation:

5 (i) At sports facilities that comport with  
 6 recognized lighting practice for such sports facilities as established by the  
 7 Illuminating Engineering Society;

8 (ii) For historic decorative considerations;

9 (iii) At monuments; and

10 (iv) For decorative lighting on bridges over  
 11 navigable waterways.

12 (B) However, lighting exempted under subdivision (2)(A) of  
 13 this section shall be selected and installed to shield the lamp or lamps from  
 14 direct view to the greatest extent possible and to minimize upward lighting  
 15 and light trespass;

16 (3) The lighting is for a public or private state correction  
 17 facility, a detention facility, or a mental health facility; or

18 (4) The governing body determines through an ordinance that a  
 19 compliant lighting system could not achieve the lighting conditions needed to  
 20 meet safety concerns without incurring excessive cost.

21 (B) The ordinance shall be in effect only for the current  
 22 instance of the project and include:

23 (i) The specific lighting system and its location;  
 24 and

25 (ii) A cost or safety justification for the need.

26  
 27 8-16-107. Authority to recover compliance costs through interim  
 28 surcharge.

29 (a) Upon a proper filing with the Arkansas Public Service Commission,  
 30 a public utility is permitted to recover, in a prompt and timely manner, all  
 31 investments and expenses for compliance with this chapter through an interim  
 32 surcharge, if the investments or expenses:

33 (1) Are not currently being recovered in existing rates;

34 (2) Are reasonably incurred;

35 (3) Were not reasonably known and measurable at a time that  
 36 allowed for a reasonable opportunity for the inclusion and consideration of

1 the investments or expenses for recovery in the public utility's last general  
 2 rate case; and

3 (4) Are incurred by the public utility to comply with the  
 4 requirements of this chapter.

5 (b)(1) The interim surcharge permitted under subsection (a) of this  
 6 section is effective until the implementation of new rate schedules in  
 7 connection with the next general rate filing of the public utility in which  
 8 the investments or expenses can be included in the public utility's base rate  
 9 schedule.

10 (2)(A) The interim surcharge permitted under subsection (a) of  
 11 this section shall not exceed ten percent (10%).

12 (B) If the interim surcharge permitted under subsection  
 13 (a) of this section exceeds ten percent (10%), the public utility shall  
 14 conduct a rate review before recovering the interim surcharge.

15 (c) The interim surcharge permitted under subsection (a) of this  
 16 section is effective immediately upon proper filing with the commission.

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