



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Economic Development WV Department of TITLE-SERIES: 145-19
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 145-19 Rule Governing the Operation of Motorsports Complexes and Events

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 20-19-7

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Governs the operation of motorsports complexes and motorsports events

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Passage of HB 2569

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No fiscal impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Graham Platz -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 145
LEGISLATIVE RULE
DEPARTMENT OF ECONOMIC DEVELOPMENT

SERIES 19
RULE GOVERNING THE OPERATION OF MOTORSPORTS COMPLEXES AND EVENTS.

§145-19-1. General.

1.1. Scope. -- the following rules govern the operation of a motorsports complex or any motorsports event in West Virginia.

1.2. Authority. -- W. Va. Code §20-19-7.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2028.

§145-19-2. Definitions.

2.1. "Equipment" means personal protective equipment provided by the "motorsports operator" and/or "motorsports facility" to a "participant" for use on the facility. Equipment may include, but not be limited to helmets and harnesses.

2.2. "Motorsport facility" means a speedway or racetrack designed and intended for motorsport activities.

2.3. "Motorsport operator" means any person, partnership, corporation, lessee, or other organization, or any combination thereof offering motorsport activities.

2.4. "Participant" means any person or organization using the services of a motorsport facility including, but not limited to, spectators, vehicle operators using either a personally owned vehicle or a vehicle owned by the motorsport facility, or vehicle passengers using either a personally owned vehicle or a vehicle owned by the motorsport facility.

2.5. "Safety check" means a visual assessment performed by the motorsports facility and/or motorsports operator or a qualified third party appointed by the motorsports facility and/or motorsports operator, to identify any apparent tearing, fraying or other damage to the personal protective equipment, which would be expected to impact the ability for the item to perform as the manufacturer intended.

2.6. "Racing surface" means a plot of ground or course used for vehicular racing.

2.7. "Sanctioning body" means a regional, national, or international organization, which regularly organizes and operates events including, but not limited to promotional and touring events, time trials, driving schools, or lapping days, which have established and accepted guidelines for the operation of their events.

§145-19-3. Safety requirements for equipment.

3.1. Motorsports facility and/or motorsports operator must ensure a safety check is completed on all equipment prior to each use.

3.2. Equipment must not be altered or manipulated by the Motorsports facility and/or motorsports operator in any way other than how the manufacturer intended or recommended.

3.3. Motorsports facility and/or motorsports operator is not responsible for safety checks for any equipment not owned by the motorsports facility and/or motorsports operator.

3.4. Equipment provided by the motorsports facility or the motorsports operator must be clearly marked with:

3.4.1. Equipment number.

3.4.2. Date purchased.

3.4.3. Motorsports facility name or logo.

3.5. The motorsports facility or the motorsports operator must maintain an equipment safety log identifying the following:

3.5.1. Equipment number.

3.5.2. Date of last safety check.

3.5.3. Result of safety check.

3.6. Equipment that does not pass the safety check must be disposed of or repaired to meet the safety check before being used again.

3.7. The Department of Economic Development or any inspector employed by or representing the Department may request equipment records at any time. Upon request, the owner shall make the records available to the department or inspector.

3.8. Helmets and eye protection.

3.8.1. All drivers shall wear a properly secured helmet, which meets or exceeds industry standards.

3.8.2. Helmets shall not be required under certain instructional and guided tour events where the maximum speed on the track shall not exceed 55 miles per hour.

3.8.3. All helmets used by riders on motorcycles and open-air race cars shall be full-faced and shall be worn with the visor in the closed position while on the track.

3.8.4. Crew members fueling vehicles in pit lane during racing shall wear protective gear that meets or exceeds industry standards.

3.9. Safety belts, shoulder harness and crotch belt.

3.9.1. Safety belts are required at all times for any vehicles (except motorcycles), and for any occupant of any vehicle, that is allowed on any portion of the racetrack.

3.9.2. Safety belts for driving schools, time trials, lapping days, and promotional and tour events must meet the standards required by the sanctioning body or event organizer.

3.9.3. Safety belts must be installed according to the manufacturer's recommendations and to the guidelines of the sanctioning organization.

3.9.4. Four, five, and six-point seat belts shall not be used in conjunction with any original equipment vehicle seat that has integrated headrest without a direct pass thru for proper installation of a double shoulder belt.

3.9.5. Crotch straps, in any installation, shall not be routed around the front of a seat.

3.10. Seats.

3.10.1. Vehicles participating in promotional and touring events, driver schools, time trials, and lapping days, may utilize the original equipment seat provided by the manufacturer provided it has a headrest of sufficient height to provide head support to the driver.

3.10.2. Vehicles participating in a race or race practice shall be fitted with a seat allowing for proper installation of the minimum five or six-point seat belt. Such seat designs shall be in accordance with the rules of the sanctioning organization.

3.11. Clothing requirements; other than drivers.

3.11.1. Tank tops, shorts, and any other kind of sandals or open-toed shoes are prohibited from the pit lane or any part of the racetrack during any part of an event where vehicles are active in the pit lane or on the racetrack.

3.11.2. During races, crew members working in the hot pit shall wear suits of at least one layer of fire retardant material (two are recommended) to cover the entire torso, arms, and legs.

3.11.3. Any crew member refueling a vehicle shall have a minimum of two layers of fire-retardant material fire-retardant shoes, gloves, socks, and head socks.

3.12. Rollover bars.

3.12.1. Rollover protection is required for all open cockpit or convertible vehicles.

3.12.2. Factory provided rollover protection (production vehicles) may be used for promotional and touring events, time trials, driver schools, and lapping days providing that the height of any vehicle occupant (with helmet) is not higher than the highest point of the factory rollover protection structure.

3.12.3. Convertibles and open vehicles (except motorcycles) in races and race practices shall have a roll bar that is a minimum of one inch above the head of any vehicle driver or instructor.

3.13. Fences.

3.13.1. Fences shall be erected around the entire outside of the road course.

3.13.2. If the infield of the road course is accessible by spectators or other non-driving participants, fencing shall also be provided around the entire infield with tunnels and/or bridges to allow emergency entry and exit.

3.13.3. Fences required under this section shall be constructed of welded wire fabric or chain link and shall be at least five feet in height and so constructed as not to be easily lifted, climbed over, or moved aside.

3.14. Flag stations and flagmen.

3.14.1. Flag stations shall be erected at appropriate locations around a road course to ensure that oncoming vehicles can be provided sufficient advance notice of any obstructions or emergencies that might be on the track surface or in potentially dangerous run off areas.

3.14.2. Flag stations shall have adequate protection for the flagmen.

3.14.3. Any manned flag station shall be equipped with a two-way radio that is on the same channel as all other flag stations and race control.

3.14.4. Flagmen will only be required during racing or events where more than seven vehicles occupy the track at the same time.

3.14.5. When flagmen are used, all standard motorsport flags shall be used:

3.14.5.a. Yellow flag - caution, no passing;

3.14.5.b. Waving yellow flag - caution immediate danger, slow down, no passing;

3.14.5.c. Red flag procedure may be set by each sanctioning organization. If no procedure is provided to the contrary, all vehicles shall come to a controlled stop, off the race line within site of a flag station. The flagmen shall direct the vehicles when and how to resume. Alternatively, the sanctioning body may choose to have the red flag indicate for all vehicles to slowly and proceed immediately into the pits;

3.14.5.d. White flag - slow vehicles on the track and/or last lap of a race.

3.14.5.e. Yellow and red stripe flag - caution, oil, or debris on the track on the race line;

3.14.5.f. Black flag with orange ball - mechanical problem with the vehicle to which the flag is pointed to. Vehicle must pit immediately and go to pit lane;

3.14.5.g. Black flag - vehicle to which the flag is pointed must proceed immediately to pit lane;

3.14.5.h. Green flag - track is clear and vehicles may proceed at race speed; and

3.14.5.i. Checker flag - indicates the finish of a race or the end of a session. Vehicles shall slow to cool down speeds, cease all passing, and proceed to pit lane at the first opportunity.

§145-19-4. Safety requirements for the design of racing surfaces.

4.1. All racing motorsports surfaces must be regularly maintained.

4.2. All racing motorsports surfaces shall be free and clear of debris and items that can knowingly cause injury or damage to participants, other than that which is inherent to the type of racing motorsports surface or necessary to the intended use of the racing motorsports surface.

4.3. All new racing motorsports surfaces must meet all safety requirements herein.

4.4. Construction requirements:

4.4.1. Entrance and exit gates to the pits, staging areas, or emergency vehicle service areas, may remain open while cars are on the track and/or staging areas; however, all open gates shall be monitored to allow only authorized vehicles participating in the event and approved emergency vehicles.

4.4.2. A pit entry and exit merge lane indicated by a painted solid yellow line shall be provided before the entry to the pits. The length of the lane must allow a vehicle to either obtain race speed before merging with race traffic or to decelerate the vehicle to pit lane speed prior to the entrance to pit lane.

4.4.3. All safety features such as hubrails, steel armco, tire barriers, safer barriers, concrete walls, and fencing shall be constructed and maintained to afford maximum protection for spectators and participants.

4.4.4. Any spectator stands or viewing area shall be at least 25 feet from the designated safety feature unless said feature is a fence.

§145-19-5. Safety requirements for the provision of run-off areas.

5.1. All run-off areas must be of adequate size and made of material to allow for the safe and controlled use by drivers.

5.2. Motorsports operators must endeavor to maintain the run-off areas to be free and clear of debris and items which would be expected to cause harm to a driver or spectator.

5.3. Embankments around the run-off areas must be maintained where necessary.

§145-19-6. Requirements for fire and other emergency services.

6.1. Motorsports operators must ensure fire services are available to respond to a fire emergency during appropriate motorsports events.

6.1.1. Fire services may be provided via an on-site service or through the use of municipal services, such as the 911 system.

6.1.2. Fire services provided by a motorsports operator must ensure all emergency equipment meets or exceeds State safety requirements.

6.2. Motorsports operators must ensure emergency medical services are available to respond to a health emergency during motorsports events.

6.2.1. Emergency medical services may be provided via an on-site EMS team or through the use of municipal services, such as the 911 system.

6.2.2. Emergency medical services provided by a motorsports operator must ensure that all EMS providers are licensed, and equipment meets or exceeds state safety requirements.