

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Hoofman**

A Bill

ACT 1083 OF 1993
SENATE BILL 367

For An Act To Be Entitled

8 *"AN ACT TO AMEND ARKANSAS CODE 25-15-208 AND 25-15-212 OF*
9 *THE ADMINISTRATIVE PROCEDURE ACT PROVIDING FOR THE*
10 *DISCLOSURE OF INFORMATION TO LICENSE AND PERMIT HOLDERS*
11 *FROM THE AGENCIES OF THE STATE; AND FOR OTHER PURPOSES."*

Subtitle

14 *"TO PROVIDE FOR THE DISCLOSURE OF INFORMATION TO LICENSE*
15 *AND PERMIT HOLDERS FROM THE AGENCIES OF THE STATE."*

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

19 *SECTION 1. Arkansas Code Annotated §25-15-208 is amended to read as*
20 *follows:*

21 *"(a) In every case of adjudication:*

22 *(1) All parties shall be afforded an opportunity for hearing*
23 *after reasonable notice.*

24 *(2) The notice shall include:*

25 *(A) A statement of the time, place, and nature of the*
26 *hearing;*

27 *(B) A statement of the legal authority and jurisdiction*
28 *under which the hearing is to be held;*

29 *(C) A short and plain statement of the matters of fact and*
30 *law asserted.*

31 *(3) In every case of adjudication wherein an agency seeks to*
32 *revoke, suspend or otherwise sanction a license or permit holder, the agency*
33 *or its attorney upon the request of the license or permit holder must provide*
34 *the following information prior to conducting a hearing of adjudication:*

35 *(A) The names and addresses of persons whom the agency*
36 *intends to call as witnesses at any hearing;*

1 (B) Any written or recorded statements and the substance of
2 any oral statements made by the license or permit holder or a copy of the
3 same;

4 (C) Any reports or statements or experts, made in
5 connection with the particular case, including results of physical or mental
6 examinations, scientific tests, experiments or comparisons or copies of the
7 same;

8 (D) Any books, papers, documents, photographs or tangible
9 objects, which the agency intends to use in any hearing or which were obtained
10 from or belong to the license or permit holder or copies of the same;

11 (E) Disclosure shall not be required of research or
12 records, correspondence, reports or memoranda to the extent that they contain
13 the opinions, theories or conclusions of the attorney for the agency or
14 members of his staff or other state agents.

15 (4) Opportunity shall be afforded all parties to respond and
16 present evidence and argument on all issues involved.

17 (5) The record shall include:

18 (A) All pleadings, motions, and intermediate rulings;

19 (B) Evidence received or considered, including, on request
20 of any party, a transcript of oral proceedings or any part thereof;

21 (C) A statement of matters officially noticed;

22 (D) Offers of proof, objections, and rulings thereon;

23 (E) Proposed findings and exceptions thereto;

24 (F) All staff memoranda or data submitted to the hearing
25 officer or members of an agency in connection with their consideration of the
26 case.

27 (6) Findings of fact shall be based exclusively on the evidence
28 and on matters officially noticed.

29 (7) If the agency is authorized by law to issue subpoenas for the
30 attendance and testimony of witnesses and the production of documents or
31 things, then any party shall to the same extent be so authorized, and the
32 agency shall issue a subpoena forthwith on written application thereof.

33 (b) Nothing in this subchapter shall prohibit informal disposition by
34 stipulation, settlement, consent order, or default."

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1 SECTION 2. All provisions of this act of general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provisions of this act or the application thereof to
6 any person or circumstance is held invalid, the invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provisions or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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14 SECTION 5. EMERGENCY. *It is hereby found and determined by the General*
15 *Assembly of the State of Arkansas that it is necessary for permit and license*
16 *holders from the various state agencies to receive information from the*
17 *agencies from which they hold permits when disciplinary proceedings are*
18 *pending and that, therefore, immediate effect should be given to this measure*
19 *and an emergency is hereby declared to exist and this act being necessary for*
20 *the immediate preservation of the public peace, health, and safety, shall be*
21 *in full force and effect from and after its passage and approval.*

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/s/Senator Hoofman

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APPROVED: 04/13/93

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