

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 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 978

4
5 By: Senator Salmon
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For An Act To Be Entitled

8
9 AN ACT TO CONFORM THE ADVERTISING AND PROMOTION
10 COMMISSION, § 26-75-601, ET SEQ., TO CERTAIN
11 PROVISIONS OF THE ARKANSAS TAX PROCEDURE ACT,
12 §26-18-101, ET SEQ.; AND FOR OTHER PURPOSES.
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Subtitle

14
15 TO CONFORM THE ADVERTISING AND
16 PROMOTION COMMISSION, § 26-75-601, ET
17 SEQ., TO CERTAIN PROVISIONS OF THE
18 ARKANSAS TAX PROCEDURE ACT, §26-18-101,
19 ET SEQ.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 26, Chapter 75, Subchapter 6, is
25 amended to add an additional section to read as follows:

26 26-75-619. Records confidential and privileged - Exceptions.

27 (a)(1)(A) The commission or a designated agent of the commission is
28 the official custodian of all records and files required by the commission to
29 be filed by the person paying any tax levied under this subchapter.

30 (B) The commission shall maintain the confidentiality of
31 all records filed with the commission.

32 (2)(A)(i) Except as otherwise provided by this subchapter, the
33 records and files of the commission concerning the administration of any tax
34 levied under this subchapter are confidential and privileged.

35 (ii) The records and files, information from the
36 records or files, or information from the examination or inspection of the



1 premises or property of any taxpayer shall not be divulged or disclosed by
2 the commission or any other person who has obtained the records and files.

3 (B) The intent of this section is that all tax returns,
4 audit reports, and information pertaining to any tax returns or reports filed
5 with or maintained by the commission in connection with any tax levied under
6 this subchapter shall not be subject to the Freedom of Information Act.

7 (b) The provisions against disclosure shall not apply to the following
8 circumstances:

9 (1) Publication of information and statistics by the commission
10 classified to prevent the identification of a particular taxpayer;

11 (2) Disclosure and use of information in records filed in
12 connection with any tax levied under this subchapter by the commission when
13 conducting any examination, audit, or investigation of any taxpayer in regard
14 to any tax levied under this subchapter;

15 (3)(A) Disclosure of information to the Attorney General of this
16 state, any prosecuting attorney, or any other individual who is empowered by
17 law to prosecute criminal and civil violations of any ordinance levying the
18 tax enacted under this subchapter, if the commission initiates the
19 investigation.

20 (B) If the prosecution is initiated by the Attorney
21 General or a prosecuting attorney, the commission shall not disclose any
22 information unless required by subpoena issued by a circuit court.

23 (C) Information may be introduced as evidence by the
24 Attorney General, a prosecuting attorney, or other individual so empowered
25 when prosecuting any civil or criminal violation of any ordinance levying the
26 tax enacted under this subchapter;

27 (4) Disclosure compelled by order of any court of competent
28 jurisdiction in the State of Arkansas;

29 (5) Disclosure by the taxpayer or an authorized agent or by the
30 commission, at the taxpayer's request, of any information which the
31 commission has concerning that taxpayer;

32 (6) Disclosure and use of information by the commission at an
33 administrative hearing held regarding the issuance, cancellation, revocation,
34 or suspension of licenses or permits issued by the commission; and

35 (7) Disclosure and use of information in the commission's
36 records by the commission in connection with the collection and enforcement

1 of any tax levied under this subchapter against a taxpayer including, but not
2 limited to, notices of proposed and final assessments, administrative
3 hearings, judicial proceedings before any court of competent jurisdiction in
4 this state seeking collection and enforcement of any tax levied under this
5 subchapter or compliance with any ordinance levying the tax, judicial
6 proceedings before any court of competent jurisdiction in this state seeking
7 judicial relief from any proposed assessment, and issuance and filing in the
8 office of the circuit clerk a certificate of indebtedness as prescribed by
9 § 26-75-603.

10 (c) Individual taxpayer’s tax receipt records shall not be disclosed
11 to any member of the commission, except in the aggregate before commencement
12 of enforcement procedures by the commission to collect unpaid taxes under §
13 26-75-603(c)-(e).

14 (d)(1) Any person who knowingly discloses information in violation of
15 this section is guilty of a Class C misdemeanor.

16 (2) In addition to any fine or imprisonment, a commission
17 employee who violates this section shall be discharged from employment.

18 (e) Except if permitted by law, a person who knowingly obtains or
19 attempts to obtain any of the confidential and privileged records and files
20 of the commission is guilty of a Class A misdemeanor.

21 (f) The commission shall report all violations of this section to the
22 appropriate prosecuting attorney in this state.

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