

1 State of Arkansas As Engrossed: S3/22/21 S3/29/21 H4/1/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 479

4

5 By: Senators C. Tucker, J. Dismang

6 By: Representatives A. Collins, Eaves

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For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW TO PROVIDE RELIEF FOR
10 RESTAURANTS; TO ALLOW RESTAURANTS TO EXPAND OUTDOOR
11 DINING WITHOUT PRIOR APPROVAL FROM THE ALCOHOLIC
12 BEVERAGE CONTROL DIVISION; TO DELAY THE PAYMENT OF
13 RESTAURANT SALES TAXES; TO DECLARE AN EMERGENCY; AND
14 FOR OTHER PURPOSES.

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Subtitle

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19 TO PROVIDE RELIEF FOR RESTAURANTS; TO
20 ALLOW RESTAURANTS TO EXPAND OUTDOOR
21 DINING; TO DELAY THE PAYMENT OF
22 RESTAURANT SALES TAXES; AND TO DECLARE AN
23 EMERGENCY.

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

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SECTION 1. DO NOT CODIFY. Legislative findings.

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(a) The General Assembly finds that:

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(1) On January 30, 2020, the World Health Organization

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designated the coronavirus 2019 (COVID-19) outbreak as a public health
emergency of international concern;

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(2) Coronavirus 2019 (COVID-19) is a highly contagious and

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sometimes fatal respiratory disease;

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(3) On March 11, 2020, the Governor issued Executive Order 20-03

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declaring an emergency in the State of Arkansas in response to an outbreak of
36 coronavirus 2019 (COVID-19);



1 (4) On March 20, 2020, the Secretary of the Department of
2 Health, in consultation with the Governor, issued a directive that closed
3 indoor dining areas in all bars and restaurants to limit the spread of
4 coronavirus 2019 (COVID-19);

5 (5) On May 5, 2020, the Governor issued Executive Order 20-25,
6 which extended the emergency declaration;

7 (6) On May 11, 2020, the secretary issued a directive regarding
8 resuming in-person restaurant dining that required a phased-in approach, with
9 the first phase including a limitation on the number of customers to one-
10 third (1/3) of the total capacity, specifications regarding the spacing of
11 tables, and other requirements related to sanitation and prohibited
12 practices;

13 (7) On May 18, 2020, the secretary issued a directive regarding
14 resuming in-person restaurant dining that provided for an increase in the
15 total seating capacity for restaurants, permitted bar service to resume,
16 adjusted the spacing between seating at adjacent tables, and continued
17 certain requirements from the first phase;

18 (8) On June 18, 2020, the Governor issued Executive Order 20-37,
19 which terminated the emergency declared under Executive Order 20-03 and
20 declared anew the public health and disaster emergency and declaration of the
21 State of Arkansas as a disaster area;

22 (9) On July 16, 2020, the Governor issued Executive Order 20-43
23 regarding the issuance of a face-covering directive by the secretary, which
24 required every person in Arkansas to wear a face covering over the mouth and
25 nose during all indoor activities with some exceptions;

26 (10) On August 14, 2020, the Governor issued Executive Order 20-
27 45, which renewed the emergency declared under Executive Order 20-37 for an
28 additional sixty (60) days;

29 (11) On October 13, 2020, the Governor issued Executive Order
30 20-48, which renewed the emergency declared under Executive Order 20-37 for
31 an additional sixty (60) days;

32 (12) On December 11, 2020, the Governor issued Executive Order
33 20-51, which renewed the emergency declared under Executive Order 20-37;

34 (13) On December 29, 2020, the Governor issued Executive Order
35 20-53, which renewed the emergency declared under Executive Order 20-37 for
36 an additional sixty (60) days;

1 (14) On February 26, 2021, the Governor issued Executive Order
2 21-03, which renewed the emergency declared under Executive Order 20-37 until
3 March 31, 2021, and left in place the mask mandate;

4 (15) The Centers for Disease Control and Prevention has advised
5 that coronavirus 2019 (COVID-19) is spread mainly by person-to-person
6 contact, and the best means of slowing the spread of the virus is through
7 practicing social distancing and protecting oneself and others by minimizing
8 personal contact with environments where this potential deadly virus may be
9 transmitted;

10 (16) The restaurant industry has been significantly impacted by
11 coronavirus 2019 (COVID-19) and the social distancing required to limit its
12 spread; and

13 (17) The preservation and fiscal stability of the restaurant
14 industry is critical to the economic security and cultural vitality of this
15 state and is the fundamental policy objective of this act.

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17 SECTION 2. Arkansas Code Title 3, Chapter 4, Subchapter 1, is amended
18 to add an additional section to read as follows:

19 3-4-107. Expansion of outdoor dining at restaurants.

20 (a)(1) Except as provided in subsection (b) of this section, a
21 restaurant with a valid alcoholic beverage permit from the Alcoholic Beverage
22 Control Division may expand its outdoor dining availability at the restaurant
23 with approval from the local government zoning authority of the municipality
24 or county in which it is located without obtaining prior approval from the
25 division.

26 (2) A restaurant seeking approval to expand outdoor dining under
27 subdivision (a)(1) of this section shall provide notice to the division of
28 the expansion and change in floor plan.

29 (b) If the expansion in outdoor dining increases the seating capacity
30 in a way that could result in a change in permit type, the restaurant shall
31 obtain division approval prior to expanding the outdoor dining area at the
32 restaurant.

33 (c) A restaurant that expands outdoor dining under this section shall
34 comply with division rules regarding outdoor dining.

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36 SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE.

1 (a) As used in this section, "taxpayer" means a restaurant that is a
2 public or private establishment that:

3 (1) Is kept, used, maintained, advertised, and held out to the
4 public or to a private or restricted membership as a place where complete
5 meals are actually and regularly served;

6 (2) Has as its primary purpose the serving of complete meals;

7 (3) Provides adequate and sanitary kitchen and dining equipment;

8 (4) Has a seating capacity of at least twenty-five (25) persons;

9 (5) Employs a sufficient number and variety of employees to
10 prepare, cook, and serve suitable food for its guests or members;

11 (6) Serves at least one (1) meal per day; and

12 (7) Is open a minimum of five (5) days per week, with the
13 exception of holidays, vacations, and periods of redecorating.

14 (b) A taxpayer that is required to collect and remit to the Secretary
15 of the Department of Finance and Administration the tax levied by the
16 Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., may delay remitting
17 sales tax and filing returns otherwise required under the Arkansas Gross
18 Receipts Act of 1941, § 26-52-501 et seq., as follows:

19 (1) All sales tax remittances and reports for sales tax
20 collected in March, April, and May of 2021 may be filed with the secretary by
21 June 20, 2021;

22 (2) All sales tax remittances and reports for sales tax
23 collected in June, July, and August of 2021 may be filed with the secretary
24 by September 20, 2021;

25 (3) All sales tax remittances and reports for sales tax
26 collected in September, October, and November of 2021 may be filed with the
27 secretary by December 20, 2021; and

28 (4) All sales tax remittances and reports for sales tax
29 collected in December of 2021 and January and February of 2022 may be filed
30 with the secretary by March 20, 2022.

31 (c) If a taxpayer files the required returns and remits the required
32 sales tax in the time frames under subsection (b) of this section:

33 (1) No late fees or penalties shall be assessed against the
34 taxpayer; and

35 (2) The taxpayer is eligible for the discounts for early payment
36 stated in § 26-52-503(a) and (c).

1 (d) The secretary may promulgate rules to implement this section.

2 (e) This section expires March 20, 2022.

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4 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that restaurants have been uniquely
6 and profoundly impacted by coronavirus 2019 (COVID-19); that the unique
7 impact includes significant reduction in revenue and increased administrative
8 burdens associated with trying to remain in business; that many restaurants
9 are still struggling to stay in business; that the continued struggle of the
10 restaurants in this state imperils Arkansas's further economic recovery from
11 the pandemic; and that this act is immediately necessary because it
12 alleviates some of the administrative burdens on restaurants and increases
13 the probability that more restaurants will be able to stay in business and
14 strengthen our economy. Therefore, an emergency is declared to exist, and
15 this act being immediately necessary for the preservation of the public
16 peace, health, and safety shall become effective on:

17 (1) The date of its approval by the Governor;

18 (2) If the bill is neither approved nor vetoed by the Governor,
19 the expiration of the period of time during which the Governor may veto the
20 bill; or

21 (3) If the bill is vetoed by the Governor and the veto is
22 overridden, the date the last house overrides the veto.

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24 */s/C. Tucker*

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27 **APPROVED: 4/14/21**