

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

SENATE BILL 254

4
5 By: Senators K. Hammer, Irvin, Beckham, Caldwell, A. Clark, Hester, M. Johnson, Rice, D. Wallace
6 By: Representatives Lundstrum, Bentley, Barker, Boyd, Brown, Bryant, Cavanaugh, Cloud, Coleman, C.
7 Cooper, Cozart, Crawford, Furman, Gonzales, M. Gray, Haak, Hollowell, L. Johnson, Ladyman, Lynch,
8 McGrew, Miller, Payton, Penzo, B. Smith, Speaks, Tollett, Underwood, Vaught, Warren

For An Act To Be Entitled

9
10 AN ACT TO ENSURE THAT BUSINESSES ARE NOT PENALIZED BY
11 THE DEPARTMENT OF HEALTH FOR THE BEHAVIOR OF PATRONS
12 OR CUSTOMERS DURING THE CORONAVIRUS 2019 (COVID-19)
13 PUBLIC HEALTH EMERGENCY; TO DECLARE AN EMERGENCY; AND
14 FOR OTHER PURPOSES.
15

Subtitle

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18 TO ENSURE THAT BUSINESSES ARE NOT
19 PENALIZED BY THE DEPARTMENT OF HEALTH FOR
20 THE BEHAVIOR OF THEIR PATRONS OR
21 CUSTOMERS DURING THE CORONAVIRUS 2019
22 (COVID-19) PUBLIC HEALTH EMERGENCY; AND
23 TO DECLARE AN EMERGENCY.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. Arkansas Code § 20-7-101(a), concerning violations and
30 penalties relating to orders or rules made by the Department of Health, is
31 amended to read as follows:

32 (a)(1) Every firm, person, or corporation violating any of the
33 provisions of this act or any of the orders or rules ~~made and promulgated in~~
34 ~~pursuance hereof shall be deemed~~ issued in accordance with this act is guilty
35 of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of
36 not less than one hundred dollars (\$100) nor more than five hundred dollars



1 (\$500) or by imprisonment not exceeding one (1) month, or both.

2 (2) Each day of violation shall constitute a separate offense.

3 (3) During the coronavirus 2019 (COVID-19) public health
4 emergency, a firm, person, or corporation is not liable under subdivision
5 (a)(1) of this section if the violation of the provisions of this act or any
6 orders or rules issued in accordance with this act related to the coronavirus
7 2019 (COVID-19) public health emergency results from the behavior of a patron
8 or customer of the firm, person, or corporation.

9 (4) During the coronavirus 2019 (COVID-19) public health
10 emergency, other state agencies that inspect a firm, person, or corporation,
11 including the Alcoholic Beverage Control Division, shall not hold the firm,
12 person, or corporation liable under subdivision (a)(1) of this section if the
13 violation of the provisions of this act or any orders or rules issued in
14 accordance with this act related to the coronavirus 2019 (COVID-19) public
15 health emergency results from the behavior of a patron or customer of the
16 firm, person, or corporation.

17 (5) Enforcement of order, rules, or directives is the expressed
18 responsibility of the issuing agency.

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20 SECTION 2. Arkansas Code § 20-7-109(c), concerning the authority to
21 regulate public health and exceptions to the authority to regulate of the
22 State Board of Health, is amended to read as follows:

23 (c) The board shall not:

24 (1) Regulate ~~regulate~~ the practice of medicine or healing nor
25 interfere with the right of any citizen to employ the practitioner of his or
26 her choice; or

27 (2) Require, through enforcement or application, or both, of the
28 provisions of this act or any orders or rules issued in accordance with this
29 act related to the coronavirus 2019 (COVID-19) public health emergency a
30 firm, person, or corporation to regulate the behavior of patrons or customers
31 of the firm, person, or corporation during the coronavirus 2019 (COVID-19)
32 public health emergency.

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34 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that a healthy economy is essential
36 to the public peace, health, and safety of the citizens of this state; that

1 during the public health emergency related to coronavirus 2019 (COVID-19),
2 businesses have been unfairly penalized for the behavior of their patrons and
3 customers; that businesses are not at fault for the behavior of their patrons
4 and customers; that the penalization of businesses for the behavior of their
5 patrons and customers prompts closure of businesses in this state and
6 adversely impacts the state's economy; that businesses deserve protections
7 from this unfair penalization for the behavior of their patrons and
8 customers; and that this act is immediately necessary to protect businesses
9 from unfair penalization for the behavior of their patrons and customers and
10 to preserve the public peace, health, and safety by maintaining the state's
11 economy. Therefore, an emergency is declared to exist, and this act being
12 immediately necessary for the preservation of the public peace, health, and
13 safety shall become effective on:

- 14 (1) The date of its approval by the Governor;
- 15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or
- 18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

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