

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 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 2472

4
5 By: Representative Hunt
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7

For An Act To Be Entitled

8
9 CONSUMER PROTECTION ACT OF 2001.
10

Subtitle

11
12 CONSUMER PROTECTION ACT OF 2001.
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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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17 SECTION 1. This act may be cited as the "Consumer Information Act."
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19 SECTION 2. Information which directly concerns a substantial danger to
20 the public health or safety, or to the health or safety of any particular
21 individual, shall not be subject to any confidentiality agreement or order.
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23 SECTION 3. The courts of this state shall not enter an order or
24 judgment which has the purpose or effect of concealing information which
25 directly concerns a substantial danger to the public health or safety, or to
26 the health or safety of any particular individual.
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28 SECTION 4. Any portion of an agreement or contract which has the
29 purpose or effect of concealing information which directly concerns a
30 substantial danger to the public health or safety, or to the health or safety
31 of any particular individual is void, contrary to public policy, and may not
32 be enforced.
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34 SECTION 5. (a) Any affected person has standing to contest an order,
35 judgement, agreement or contract that violates this act.

36 (b) A person may contest an order, judgment, agreement or contract

1 that violates this act by filing a motion in the court that entered the order
2 or judgment, or by bringing an action for declaratory judgment under Rule 57
3 of the Arkansas Rules of Civil Procedure or Arkansas Code 16-111-101 - 16-
4 111-111.

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6 SECTION 6. (a)(1) Any party seeking confidentiality shall provide a
7 list the alleged confidential information identified by category and title,
8 or name of the information or document within the time allowed under the
9 appropriate state rules for responding to discovery.

10 (2) Although a party may seek an extension of time for fully
11 responding to discovery, it shall be required to seek confidentiality and
12 disclose the list at the time it raises the issue of confidentiality.

13 (3) Upon motion and good cause shown by a party attempting to
14 prevent disclosure of information or materials, including, but not limited to
15 alleged trade secrets, the court shall examine the disputed information or
16 materials in camera.

17 (4) The party attempting to prevent disclosure shall submit to
18 the court only those documents that it contends should not be disclosed.

19 (5) A requisite for a finding of good cause shall include an
20 affidavit from a party seeking confidentiality with the following affirmative
21 representations:

22 (A) The materials sought to be protected have never been
23 disclosed to any person other than employees of the party or the party's
24 attorneys;

25 (B) Why each category of information is confidential or a
26 trade secret;

27 (C) The specific harm that could result if the information
28 is disclosed; and

29 (D) An affirmative representation that the information
30 sought to be protected has never before been used in open court.

31 (b)(1) The court shall have the power to appoint a special master
32 pursuant to the appropriate state Rules of Civil Procedure to conduct the
33 review.

34 (2)(A) If the court finds that the information or materials or
35 portions thereof consist of information which directly concerns a substantial
36 danger to the public health or safety, or to the health or safety of any

1 particular individual, the court shall allow disclosure of the information or
2 materials.

3 (B) If allowing disclosure, the court shall allow
4 disclosure of only that portion of the information or materials which
5 directly concerns a substantial danger to the public health or safety, or to
6 the health or safety of any particular individual.

7 (3) In the event that the court finds certain documents or
8 information to be confidential, subject to disclosure pursuant only to a
9 protective order, the court shall allow the documents or information to be
10 shared with attorneys representing parties in similar litigation so long as
11 those parties or their attorneys submit to the jurisdiction of the court and
12 sign the protective order.

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14 SECTION 7. Any person who substantially prevails in seeking disclosure
15 of information or materials under this act, or in opposing a motion to
16 prevent disclosure, shall be entitled to recover an award of costs and
17 reasonable attorneys' fees from the person who opposed the motion seeking
18 disclosure or from the person who moved or joined in a motion to limit public
19 disclosure.

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21 SECTION 8. (a) This act shall become effective on September 1, 2001.

22 (b)(1) This act is not applicable to provisions in contracts,
23 agreements or court orders that took effect before that date unless a motion
24 to vacate, modify, reconsider, or declare void and unenforceable is filed in
25 regard to those provisions.

26 (2) Any such motion shall be heard and resolved pursuant to this
27 act.

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