

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.

State of Arkansas
83rd General Assembly
Regular Session, 2001

As Engrossed: H3/20/01

A Bill

HOUSE BILL 2651

By: Representative Salmon

For An Act To Be Entitled

AN ACT TO AMEND TITLE 25, SUBCHAPTER 75 OF THE
ARKANSAS CODE BY ADDING A SECTION DECLARING
RECORDS, FILES, AND INFORMATION PERTAINING TO ANY
TAX LEVIED AND COLLECTED PURSUANT TO THE
ADVERTISING AND PROMOTION COMMISSION ACT
CONFIDENTIAL AND PRIVILEGED; AND FOR OTHER
PURPOSES.

Subtitle

AN ACT TO AMEND THE ARKANSAS CODE BY
ADDING A SECTION DECLARING RECORDS,
FILES, AND INFORMATION PERTAINING TO ANY
TAX LEVIED AND COLLECTED PURSUANT TO THE
ADVERTISING AND PROMOTION COMMISSION ACT
CONFIDENTIAL AND PRIVILEGED.

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

SECTION 1. Arkansas Code, Title 25, Chapter 75, Subchapter 6, is amended by adding an additional section to read as follows:

25-75-619. Records confidential and privileged - Exceptions.

(a)(1) The commission, or a designated agent of the commission, is the official custodian of all records and files required by the commission to be filed by the person paying any tax levied pursuant to this chapter with the commission, and is required to take all steps necessary to maintain their confidentiality.

(2)(A) Except as otherwise provided by this chapter, the records

1 and files of the commission concerning the administration of any tax levied
2 pursuant to this chapter are confidential and privileged. These records and
3 files, and any information obtained from these records or files or from any
4 examination or inspection of the premises or property of any taxpayer, shall
5 not be divulged or disclosed by the commission or any other person who may
6 have obtained these records and files.

7 (B) It is the specific intent of this chapter that all tax
8 returns, audit reports, and information pertaining to any tax returns or
9 reports filed with or maintained by the commission in connection with any tax
10 levied pursuant to this chapter, shall not be subject to the provisions of
11 the Freedom of Information Act of 1967, beginning at § 25-19-101.

12 (b) The provisions against disclosure shall not apply to the following
13 circumstances:

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

16 (2) Use of the information in records filed in connection with
17 any tax levied pursuant to this chapter by the commission when conducting any
18 audit or investigation of any taxpayer in regard to any tax levied pursuant
19 to this chapter;

20 (3) Disclosure of information to the Attorney General of this
21 state, any prosecuting attorney, or any other individual who is empowered by
22 law to prosecute criminal and civil violations of any ordinance levying the
23 tax enacted pursuant to this chapter, when the commission initiates the
24 investigation. If the prosecution is initiated by the Attorney General or a
25 prosecuting attorney, the commission shall not disclose any information
26 unless required by subpoena issued by a circuit court. Information may be
27 introduced as evidence by the Attorney General, a prosecuting attorney, or
28 other individual so empowered when they are prosecuting any civil or criminal
29 violation of any ordinance levying the tax enacted pursuant to this chapter;

30 (4) Disclosure compelled by any Arkansas circuit or chancery
31 court or the Arkansas Supreme Court or any United States federal court of
32 information involved in any case or controversy before that court;

33 (5) Disclosure by the taxpayer or his authorized agent or by the
34 commission, at the taxpayer's request, of any information which the
35 commission has concerning that taxpayer;

36 (6) Disclosure by the commission, at its discretion, of

1 information from the records of any tax levied pursuant to this chapter to
2 comparable officials of any other state or the United States who are charged
3 with the administration of a similar tax;

4 (7) Disclosure of information at an administrative hearing held
5 regarding the issuance, cancellation, revocation, or suspension of licenses
6 or permits issued by the commission;

7 (8) Disclosure by the commission of:

8 (A) The identity of any person, firm, or corporation that is a
9 least ninety (90) days delinquent on the taxes levied under this subchapter;

10 (B) The amount of the delinquency; and

11 (C) The period of time of the delinquency.

12 (c) Any person who knowingly discloses information in violation of the
13 provisions of this section shall be guilty of a Class A misdemeanor. An
14 employee of the commission who is convicted of violating the provisions of
15 this section shall be discharged from employment in addition to any fine or
16 imprisonment.

17 (d) Any person who knowingly obtains, or attempts to obtain any of the
18 confidential and privileged records and files of the commission who is not so
19 permitted by law is guilty of a Class A misdemeanor.

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

22 /s/ Salmon