1	State of Arkansas	As Engrossed:	Bill		
2	91st General Assembly	A	Bill		
3	Regular Session, 2017			HOUSE BILL 2202	
4					
5	By: Representative Tucker				
6					
7	For An Act To Be Entitled				
8	AN ACT CONCERNING THE NEW BUSINESS RULE AND THE				
9	ABILITY OF A BUSINESS TO RECOVER LOST PROFITS IN				
10	LITIGATION; AND FOR OTHER PURPOSES.				
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12					
13	Subtitle				
14	CON	CERNING THE NEW	BUSINESS RULE AND THE		
15	AB	LITY OF A BUSINES	SS TO RECOVER LOST		
16	PRO	OFITS IN LITIGATIO	ON.		
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19	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:				
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21	SECTION 1. DO	NOT CODIFY. <u>Les</u>	gislative findings.		
22	The General Assembly finds that:				
23	(1) Courts in this state and others may have perceived Arkansas				
24	as a "new business n	ule" state concer	rning the exclusion of	<u>f lost profit</u>	
25	damages for a newly	established busir	ness;		
26	<u>(2) Dan</u>	ages have been re	ecoverable in this sta	ate if they can be	
27	established with a r	easonable degree	of certainty; and		
28	<u>(3) The</u>	question of dama	iges, both as to measi	ure or amount, is a	
29	question of fact, an	d thus Arkansas l	nas not applied a rig	id "new business	
30	rule" to bar the awa	rd of future lost	profits in tort or i	breach of contract	
31	cases.				
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33	SECTION 2. DO	NOT CODIFY. <u>Leg</u>	gislative intent.		
34	The General Assembly intends to:				
35	<u>(1) Ann</u>	ul the application	on of the "new busines	ss rule" on any	
36	action for damages of	consisting of lost	profits: and		

1	(2) Prohibit the recognition of the "new business rule" in a			
2	court in this state.			
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4	SECTION 3. Arkansas Code Title 16, Chapter 64, is amended to add an			
5	additional section to read as follows:			
6	16-64-131. New business rule — Damages.			
7	(a) In a case involving a recognized tort or breach of contract, there			
8	is no absolute denial of damages for lost profits to a newly established			
9	<u>business.</u>			
10	(b) A newly established business is subject to the same standard of			
11	proof for lost profits as any other business regardless of how long the newly			
12	established business has operated.			
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14	/s/Tucker			
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