

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S3/22/21 S3/29/21

# A Bill

SENATE BILL 479

5 By: Senator C. Tucker  
6

## For An Act To Be Entitled

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

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16 TO PROVIDE RELIEF FOR RESTAURANTS; TO  
17 ALLOW RESTAURANTS TO EXPAND OUTDOOR  
18 DINING; TO DELAY THE PAYMENT OF  
19 RESTAURANT SALES TAXES; AND TO DECLARE AN  
20 EMERGENCY.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. DO NOT CODIFY. Legislative findings.

27 (a) The General Assembly finds that:

28 (1) On January 30, 2020, the World Health Organization  
29 designated the coronavirus 2019 (COVID-19) outbreak as a public health  
30 emergency of international concern;

31 (2) Coronavirus 2019 (COVID-19) is a highly contagious and  
32 sometimes fatal respiratory disease;

33 (3) On March 11, 2020, the Governor issued Executive Order 20-03  
34 declaring an emergency in the State of Arkansas in response to an outbreak of  
35 coronavirus 2019 (COVID-19);

36 (4) On March 20, 2020, the Secretary of the Department of



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

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

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

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

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

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

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

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

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

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

36 (14) On February 26, 2021, the Governor issued Executive Order

1 21-03, which renewed the emergency declared under Executive Order 20-37 until  
2 March 31, 2021, and left in place the mask mandate;

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

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

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

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

18 3-4-107. Expansion of outdoor dining at restaurants.

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

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

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

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

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35 SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE.

36 (a) As used in this section, "taxpayer" means a restaurant that is a

1 public or private establishment that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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23 */s/C. Tucker*  
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