

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

A Bill

SENATE BILL 301

5 By: Senators D. Sullivan, Flippo, Rice, G. Stubblefield, Caldwell, Hill, Rapert, Beckham, M. Johnson
6 By: Representatives B. Smith, Miller, Gonzales, Jean, Bryant, Brooks, Bentley, Cavanaugh, Tollett,
7 Richmond, Milligan
8

For An Act To Be Entitled

10 AN ACT TO REQUIRE STATE AGENCIES TO RETURN FINES
11 COLLECTED UNDER § 20-7-101 DURING THE PUBLIC HEALTH
12 EMERGENCY FOR A FAILURE TO COMPLY WITH RULES, ORDERS,
13 OR DIRECTIVES TO MITIGATE OR PREVENT THE SPREAD OF
14 CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY;
15 AND FOR OTHER PURPOSES.
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Subtitle

18 TO REQUIRE STATE AGENCIES TO RETURN FINES
19 COLLECTED UNDER § 20-7-101 DURING THE
20 PUBLIC HEALTH EMERGENCY FOR A FAILURE TO
21 COMPLY WITH RULES, ORDERS, OR DIRECTIVES
22 RELATED TO CORONAVIRUS 2019 (COVID-19);
23 AND 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. DO NOT CODIFY. TEMPORARY LANGUAGE.

30 (a) The General Assembly finds that:

31 (1) During the public health emergency starting on March 11,
32 2020, state agencies fined businesses and collected moneys for violations of
33 a health directive or order under § 20-7-101;

34 (2) The health directives or orders failed to provide
35 alternative compliance opportunities for businesses;

36 (3) The implementation of these fines have been arbitrary with



1 state agencies unfairly applying the fines under § 20-7-101;

2 (4) These fines on businesses have negatively impacted small
 3 businesses throughout the state as well as the state economy; and

4 (5) These fines on businesses have not had the desired impact
 5 regarding the public health emergency and no Arkansas-based evidence has been
 6 provided to indicate that these fines diminished the transmission of
 7 coronavirus 2019 (COVID-19).

8 (b)(1) A state agency, including without limitation the Department of
 9 Health and the Alcoholic Beverage Control Division, that fined a business
 10 under § 20-7-101 during the public health emergency starting on March 11,
 11 2020, under Executive Order 20-03, and ending on February 28, 2021, under
 12 Executive Order 20-53, and any subsequent extensions of the public health
 13 emergency for a failure to comply with a rule, order, or directive to
 14 mitigate or prevent the spread of coronavirus 2019 (COVID-19) shall return
 15 the fines to the businesses that were fined.

16 (2) A state agency shall return the fines on or before June 30,
 17 2021 for the period from March 11, 2020, to February 28, 2021.

18 (3) For any subsequent extensions of the public health
 19 emergency, a state agency shall return the fines within sixty (60) days of
 20 collection of the fine.

21 (c) A state agency shall not return fines under § 20-7-101 for a
 22 failure to comply with a rule, order, or directive to mitigate or prevent the
 23 spread of coronavirus 2019 (COVID-19) to the following types of businesses:

24 (1) Long-term care facilities, including nursing homes;

25 (2) Residential care facilities;

26 (3) Assisted living facilities;

27 (4) Hospitals;

28 (5) Hospice facilities;

29 (6) Human development centers; or

30 (7) Any other residential entity that houses twenty-five (25) or
 31 more people.

32 (d) A state agency shall continue to collect and keep fines for
 33 violations that would have been violations without the public health
 34 emergency being in effect.

35 (e) This section does not apply to any other fines collected by a
 36 state agency from March 11, 2020, to February 28, 2021, or any subsequent

1 extensions of the public health emergency, that are not directly related to a
2 rule, order, or directive to mitigate or prevent the spread of coronavirus
3 2019 (COVID-19).

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5 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly of the State of Arkansas that during the public health
7 emergency starting on March 11, 2020, under Executive Order 20-03, state
8 agencies fined businesses and collected moneys for violations of a health
9 directive or order under § 20-7-101; that the implementation of these fees
10 have been arbitrary with state agencies unfairly applying the fines under §
11 20-7-101 to smaller businesses over larger businesses; that these fines on
12 businesses have negatively impacted small businesses throughout the state as
13 well as the state economy and have not had the desired impact regarding the
14 public health emergency; and that this act is immediately necessary to
15 protect businesses from unfair penalization and to preserve the public peace,
16 health, and safety by maintaining the state’s economy. Therefore, an
17 emergency is declared to exist, and this act being immediately necessary for
18 the preservation of the public peace, health, and safety shall become
19 effective on:

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

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

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