

Stricken language would be deleted from and underlined language would be added to present law.
Act 705 of the Regular Session

State of Arkansas *As Engrossed: S3/22/21 S3/29/21 H4/1/21*
93rd General Assembly **A Bill**
Regular Session, 2021

SENATE BILL 479

By: Senators C. Tucker, *J. Dismang*
By: Representatives A. Collins, *Eaves*

For An Act To Be Entitled

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

Subtitle

TO PROVIDE RELIEF FOR RESTAURANTS; TO ALLOW RESTAURANTS TO EXPAND OUTDOOR DINING; TO DELAY THE PAYMENT OF RESTAURANT SALES TAXES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

(a) The General Assembly finds that:

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

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

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



(4) On March 20, 2020, the Secretary of the Department of Health, in consultation with the Governor, issued a directive that closed indoor dining areas in all bars and restaurants to limit the spread of coronavirus 2019 (COVID-19);

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

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

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

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

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

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

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

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

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

(14) On February 26, 2021, the Governor issued Executive Order 21-03, which renewed the emergency declared under Executive Order 20-37 until March 31, 2021, and left in place the mask mandate;

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

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

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

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

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

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

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

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

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

SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE.

(a) As used in this section, "taxpayer" means a restaurant that is a public or private establishment that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (d) The secretary may promulgate rules to implement this section.
- (e) This section expires March 20, 2022.

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

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/C. Tucker

APPROVED: 4/14/21