

1 State of Arkansas As Engrossed: S2/10/21 S2/22/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 301

4

5 By: Senators D. Sullivan, Flippo, Rice, G. Stubblefield, Caldwell, Hill, Rapert, Beckham, M. Johnson,
6 *Gilmore, B. Davis*

7 By: Representatives B. Smith, Miller, Gonzales, Jean, Bryant, Brooks, Bentley, Cavanaugh, Tollett,
8 Richmond, Milligan, *Vaught, Underwood, Holcomb, Breaux, Dotson, Beaty Jr., Speaks*

9

For An Act To Be Entitled

10

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

17

18

19

Subtitle

20 TO REQUIRE STATE AGENCIES TO RETURN FINES
21 COLLECTED UNDER § 20-7-101 DURING THE
22 PUBLIC HEALTH EMERGENCY FOR A FAILURE TO
23 COMPLY WITH RULES, ORDERS, OR DIRECTIVES
24 RELATED TO CORONAVIRUS 2019 (COVID-19);
25 AND TO DECLARE AN EMERGENCY.

26

27

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

29

30 SECTION 1. DO NOT CODIFY. TEMPORARY LANGUAGE.

31 (a) The General Assembly finds that:

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

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



1 (3) The implementation of these fines have been arbitrary with
2 state agencies unfairly applying the fines under § 20-7-101;

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

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

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

17 (2) A state agency shall return the fines on or before June 30,
18 2021 for the period from March 11, 2020, to February 28, 2021.

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

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

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

26 (2) Residential care facilities;

27 (3) Assisted living facilities;

28 (4) Hospitals;

29 (5) Hospice facilities;

30 (6) Human development centers; or

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

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

36 (e) This section does not apply to any other fines collected by a

1 state agency from March 11, 2020, to February 28, 2021, or any subsequent
2 extensions of the public health emergency, that are not directly related to a
3 rule, order, or directive to mitigate or prevent the spread of coronavirus
4 2019 (COVID-19).

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

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

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

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

27
28 */s/D. Sullivan*
29
30
31
32
33
34
35
36