State of Arkansas *As Engrossed: S2/4/21*
93rd General Assembly **A Bill**
Regular Session, 2021 SENATE BILL 254

By: Senators K. Hammer, Irvin, Beckham, Caldwell, A. Clark, Hester, M. Johnson, Rice, D. Wallace
By: Representatives Lundstrum, Bentley, Barker, Boyd, Brown, Bryant, Cavenaugh, Cloud, Coleman, C. Cooper, Cozart, Crawford, Furman, Gonzales, M. Gray, Haak, Hollowell, L. Johnson, Ladyman, Lynch, McGrew, Miller, Payton, Penzo, B. Smith, Speaks, Tollett, Underwood, Vaught, Warren, *Beck, Pilkington, Watson, Wing*

For An Act To Be Entitled

AN ACT TO ENSURE THAT BUSINESSES ARE NOT PENALIZED BY THE DEPARTMENT OF HEALTH FOR THE BEHAVIOR OF PATRONS OR CUSTOMERS DURING THE CORONAVIRUS 2019 (COVID-19) PUBLIC HEALTH EMERGENCY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENSURE THAT BUSINESSES ARE NOT PENALIZED BY THE DEPARTMENT OF HEALTH FOR THE BEHAVIOR OF THEIR PATRONS OR CUSTOMERS DURING THE CORONAVIRUS 2019 (COVID-19) PUBLIC HEALTH EMERGENCY; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 20-7-101(a), concerning violations and penalties relating to orders or rules made by the Department of Health, is amended to read as follows:

(a)(1) Every firm, person, or corporation violating any of the provisions of this act or any of the orders or rules ~~made and promulgated in pursuance hereof shall be deemed~~ <u>issued in accordance with this act is</u> guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine of

not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment not exceeding one (1) month, or both.

(2) Each day of violation shall constitute a separate offense.

(3) During the coronavirus 2019 (COVID-19) public health emergency, a firm, person, or corporation is not liable under subdivision (a)(1) of this section if the violation of the provisions of this act or any orders or rules issued in accordance with this act related to the coronavirus 2019 (COVID-19) public health emergency results from the behavior of a patron or customer of the firm, person, or corporation.

(4) During the coronavirus 2019 (COVID-19) public health emergency, other state agencies that inspect a firm, person, or corporation, including the Alcoholic Beverage Control Division, shall not hold the firm, person, or corporation liable under subdivision (a)(1) of this section if the violation of the provisions of this act or any orders or rules issued in accordance with this act related to the coronavirus 2019 (COVID-19) public health emergency results from the behavior of a patron or customer of the firm, person, or corporation.

(5) Enforcement of order, rules, or directives is the expressed responsibility of the issuing agency.

SECTION 2. Arkansas Code § 20-7-109(c), concerning the authority to regulate public health and exceptions to the authority to regulate of the State Board of Health, is amended to read as follows:

(c) The board shall not:

(1) Regulate ~~regulate~~ the practice of medicine or healing nor interfere with the right of any citizen to employ the practitioner of his or her choice; or

(2) Require, through enforcement or application, or both, of the provisions of this act or any orders or rules issued in accordance with this act related to the coronavirus 2019 (COVID-19) public health emergency a firm, person, or corporation to regulate the behavior of patrons or customers of the firm, person, or corporation during the coronavirus 2019 (COVID-19) public health emergency.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that a healthy economy is essential

to the public peace, health, and safety of the citizens of this state; that during the public health emergency related to coronavirus 2019 (COVID-19), businesses have been unfairly penalized for the behavior of their patrons and customers; that businesses are not at fault for the behavior of their patrons and customers; that the penalization of businesses for the behavior of their patrons and customers prompts closure of businesses in this state and adversely impacts the state's economy; that businesses deserve protections from this unfair penalization for the behavior of their patrons and customers; and that this act is immediately necessary to protect businesses from unfair penalization for the behavior of their patrons and customers and to preserve the public peace, health, and safety by maintaining the state's 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/K. Hammer