ASSEMBLY, No. 4294

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)

SYNOPSIS

Permits certain retail activity during current public health emergency and state of emergency.

CURRENT VERSION OF TEXT

As introduced.

AN ACT permitting certain retail activity during current public health emergency and state of emergency.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Notwithstanding the provisions of any law, rule or regulation, or any zoning ordinance of a municipality, to the contrary, during the period that this section is in effect, a small retail business establishment located in a municipality that has not, by ordinance, opted out of the requirements of this section pursuant to subsection b. of this section, shall be permitted to establish a temporary retail site in any municipally-owned public space at which to conduct retail sales as an extension of their business premises. A small retail establishment that establishes a temporary retail site as permitted in this section shall establish, maintain and enforce social distancing protocols and the use of personal protective equipment by members of the public and employees of the small retail business establishment pursuant to any Executive Order of the Governor or any directive issued by the Commissioner of Health.

b. A municipality that does not wish to permit small retail business establishments to establish temporary retail sites within its borders pursuant to this section may, by ordinance, prohibit such activity. An ordinance adopted pursuant to this subsection shall specifically state that the municipality shall not allow any activity permitted in P.L. , c. (C.) (pending before the Legislature as this bill) to take place in the municipality. After such an ordinance is adopted by the municipal governing body, a copy of the ordinance shall be provided to each small retail business establishment located within the municipality within two business days of the adoption of the ordinance.

c. A small retail business establishment that intends to establish a temporary retail site pursuant to this section shall notify the chief of police and the municipal clerk of the dates when, and places where, the temporary retail site will be operational, not less than 72 hours prior to those dates. The governing body of the municipality shall not have the authority to approve or disapprove the location of the temporary retail site. However, the chief of police shall review the information and may refuse to allow the temporary retail site to operate if the chief of police determines that the planned location of the temporary retail site is detrimental to, or represents a danger to, the health, safety, or welfare of the municipality's residents. If, after the temporary retail site commences operation, there occurs any activity or circumstance at that site that the chief of police deems to be detrimental to, or that represents a danger to, the health, safety or welfare of the municipality's residence, the chief

of police may order the small retail business establishment to cease activity at the site.

d. A small retail business establishment shall not be permitted to engage in the business activity authorized in this section unless and until the small retail business establishment agrees in writing to indemnify, defend, and hold harmless the municipality from any claims resulting from any actions or inactions of the small retail business establishment, its staff, or its customers during the off-premises business activity permitted in this section.

e. As used in this section, "small retail business establishment" shall not include a retailer that employs more than 50 persons, or a bar, restaurant, brewery or other establishment at which food or alcoholic beverages are offered for sale.

2. This act shall take effect immediately and shall expire on the date that any and all executive or administrative orders issued by the Governor or the Commissioner of Health that impose coronavirus occupancy restrictions on retail business establishments have been terminated or rescinded, or have expired.

STATEMENT

This bill is intended to increase economic activity in the State's local business districts, where small retail business establishments have been seriously impacted by restrictions imposed to combat the COVID-19 pandemic.

This bill would permit a small retail business establishment to establish a temporary retail site in any municipally-owned public space at which to conduct retail sales as an extension of their business premise, notwithstanding the restrictions of any zoning ordinance in effect in the municipality. Under the bill , a "small retail business establishment" would not include a retailer that employs more than 50 persons, or a bar, restaurant, brewery or other establishment at which food or alcoholic beverages are offered for sale.

A municipality that does not wish to permit small retail business establishments to establish temporary retail sites within its border may, by ordinance, prohibit such activity. After such an ordinance is adopted by the municipal governing body, a copy of the ordinance would have to be provided to each small retail business establishment located within the municipality within two business days of the adoption of the ordinance.

A small retail business establishment intending to establish a temporary retail site under the bill would be required to notify the chief of police and the municipal clerk of the dates when, and places where, the temporary retail site will be operational, not less than 72 hours prior to those dates. The governing body of the

municipality would not have the authority to approve or disapprove the location of the temporary retail site. However, the chief of police, after a review of the information provided by the small retail business establishment may refuse to allow the temporary retail site to operate if the chief of police determines that the planned location of the temporary retail site is detrimental to, or represents a danger to, .the health, safety, or welfare of the municipality's residents. If, after the temporary retail site commences operation, there occurs any activity or circumstance at that site that the chief of police deems to be detrimental to, or that represents a danger to, the health, safety or welfare of the municipality's residence, the chief of police would have the authority to direct the small retail business establishment to cease activity at the site.

A small retail business establishment would not be permitted to engage in the business activity authorized in the bill unless and until the small retail business establishment enters into an agreement with the governing body of the municipality to indemnify, defend, and hold harmless the municipality from any claims resulting from any actions or inactions of the small retail business establishment, its staff, or its customers during the off-premises business activity permitted in the bill.