

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 5133

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JANUARY 13, 2021

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

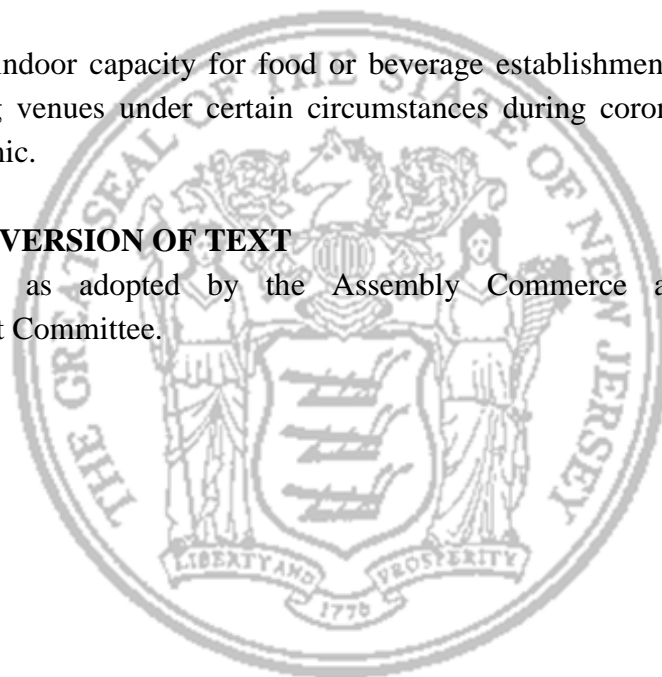
**Assemblymen Moen, Mazzeo, Assemblywoman Pintor Marin,
Assemblymen McGuckin, Catalano, Holley, Thomson, Dancer, Stanley,
Calabrese, Assemblywoman Vainieri Huttel, Assemblyman Johnson and
Assemblywoman Jimenez**

SYNOPSIS

Expands indoor capacity for food or beverage establishments and banquet and wedding venues under certain circumstances during coronavirus disease 2019 pandemic.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Commerce and Economic Development Committee.



(Sponsorship Updated As Of: 3/1/2021)

1 AN ACT concerning indoor consumption of food or beverages
2 during the public health emergency declared in response to the
3 coronavirus disease 2019 pandemic.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. a. During the public health emergency declared by the
9 Governor in response to the coronavirus disease 2019 pandemic,
10 any food or beverage establishment, or banquet or wedding venue,
11 in any indoor area on its premises, shall limit the number of
12 customers or patrons served up to:

13 (1) 25 percent of the establishment or venue's capacity if the
14 establishment or venue does not certify as to the measures it is
15 taking in accordance to paragraph (2) of this subsection to mitigate
16 the risks of coronavirus disease 2019; or

17 (2) 50 percent of the establishment or venue's capacity if:

18 (a) the establishment or venue is in a region of the State that is
19 designated by the Department of Health as having a coronavirus
20 disease 2019 activity level of moderate or lower based on the most
21 up to date activity report issued by the Department of Health;

22 (b) the establishment or venue certifies to the county board of
23 health in which the establishment or venue is located that the
24 establishment has:

25 (i) installed barriers of plexi-glass, plastic, or some other
26 material that has been approved by the commissioner between each
27 table;

28 (ii) limited parties dining together to 10 or fewer individuals;

29 (iii) provided the county board of health with information on the
30 establishment or venue's capacity at 100 percent, 50 percent, and 25
31 percent; and

32 (iv) where there is a presumptive positive or positive case of an
33 employee, guest, visitor, or vendor, shut down immediately to
34 disinfect, notify the county board of health and all employees,
35 guests, visitors, or vendors, while adhering to all confidentiality
36 requirements in accordance with the federal "Americans with
37 Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.) and any other
38 applicable laws pertaining to privacy or confidentiality of medical
39 information;

40 (c) the establishment or venue creates and submits a certified
41 coronavirus disease 2019 preparedness plan, in a form created by
42 the Department of Health, to the county board of health, which
43 includes:

44 (i) employee protocols on how to monitor for signs and
45 symptoms of coronavirus disease 2019, including a policy for
46 employees to report their signs and symptoms prior to entering the
47 workplace and for employees to report when they are sick,

- 1 (ii) a policy on presumptive or actual positive coronavirus
2 disease 2019 cases of any employee, guest, visitor or vendor that
3 requires the business to suspend operations immediately for
4 cleaning and disinfection in accordance with Centers for Disease
5 Control and Prevention (CDC) guidance prior to restarting
6 operations;
- 7 (iii) an outline of its sick leave policy, including a certification
8 of its compliance with all requirements under the "Family Leave
9 Act," P.L.1989, c.261 (C.34:11B-1 et seq.), the federal "Family and
10 Medical Leave Act of 1993," Pub.L.103-3
11 (29 U.S.C. s.2601 et seq.), P.L.2018, c.10 (C.34:11D-1 et seq.),
12 P.L.1948, c.110 (C.43:21-25 et seq.), to the extent those laws are
13 applicable, and any other applicable State or federal laws regarding
14 leave;
- 15 (iv) a policy to ensure adequate social distancing by maintaining
16 a distance of at least six feet between individuals, or groups of
17 individuals, in the establishment or venue, whether the individuals
18 are patrons or employees, to the extent possible;
- 19 (v) where it is not possible to maintain a distance of six feet
20 between individuals, a policy to erect barriers between individuals,
21 which shall include the type of barrier utilized;
- 22 (vi) limit to the number of patrons that may be seated together
23 at the same time;
- 24 (vii) requiring each employee to wash hands immediately after
25 entering the building and frequently throughout the employee's
26 shift;
- 27 (viii) the installation of hand-sanitizer dispensers or stations at
28 the entrance of the establishment or venue and in areas throughout
29 the establishment or venue for employees and patrons to be used for
30 hand hygiene in addition to soap and water in restrooms;
- 31 (ix) requiring masks for all employees who are in direct contact
32 with patrons, making masks available to all employees at no cost to
33 the employees, and requiring masks be worn by all patrons until
34 drinks or meals arrive at the table;
- 35 (x) ventilation protocols that include the maintenance of all
36 building systems and an ongoing assessment of the amount of fresh
37 air and air recirculation in the establishment or venue, and ensuring
38 that ventilation systems are being properly used;
- 39 (xi) cleaning and disinfection protocols that identify who is
40 cleaning and disinfecting if there is a presumptive or positive case
41 of coronavirus disease 2019, require that there will be frequent
42 cleaning and disinfecting of all food surfaces, including but not
43 limited to, equipment, including restrooms, high touch areas,
44 meeting rooms, host stations, railings, credit card readers, counters,
45 and menus, and require that tables, chairs, and other shared items
46 will be cleaned and disinfected after each use;
- 47 (xii) signage protocols to inform customers to remain at least six
48 feet apart while in the establishment or venue, and signage at the

- 1 entrance with the certification that the establishment or venue has
2 met the requirements of this act is allowed to serve patrons at 50
3 percent capacity; and
- 4 (xiii) communication and training protocols to ensure that all
5 employees have access to the preparedness plan required under this
6 paragraph and that all employees are properly trained to comply
7 with the preparedness plan;
- 8 (d) with respect to customers who dine in the establishment or
9 venue and not those who order takeout or delivery from the
10 establishment or venue, the establishment or venue agrees to
11 conduct contact tracing in the event of a presumptive positive case
12 or a positive case, which shall include such preemptive measures as
13 maintaining records of the names and contact information of all
14 persons who enter the establishment or venue; and
- 15 (e) the establishment or venue certifies that it is in compliance
16 with all other applicable State and federal laws.
- 17 b. A food or beverage establishment, or banquet or wedding
18 venue, may submit an application to operate at 50 percent capacity
19 indoors at any time to the county board of health, which shall
20 review and determine eligibility to operate at 50 percent capacity
21 within seven days of receipt of the establishment or venue's
22 application.
- 23 c. If a region's activity level of coronavirus disease 2019
24 increases above moderate as determined in the Department of
25 Health's "Covid-19 Activity Report," all establishments or venues
26 within the region shall decrease their indoor operations to a
27 maximum of 25 percent capacity of the establishment or venue's
28 capacity.
- 29 d. Any person may report a suspected violation of this act to
30 the appropriate county board of health. The board of health or
31 county health department to which the violation was reported shall
32 investigate the alleged violation. If it is determined that the
33 establishment or venue violated the provisions of this act, the
34 county board of health shall have the discretion to reduce the
35 capacity of the establishment or venue to 25 percent until the
36 violation is remediated to the satisfaction of the county board of
37 health.
- 38 e. The Department of Health shall routinely update and publish
39 its "Covid-19 Activity Level Report" and distribute the report, as
40 updated, to all the county boards of health in a timely manner.
41 This department shall post this information on its website and
42 report its findings to each county on a monthly basis.
- 43 f. Nothing in this act shall be construed to relieve a food or
44 beverage establishment, or a banquet or wedding venue, of any
45 requirement established by any other law or regulation.
- 46 g. Notwithstanding the provisions of this act, if the Governor
47 issues an executive order permitting food or beverage
48 establishments, or banquet or wedding venues, to operate at a

1 higher capacity than 25 percent indoors without compliance with
2 the requirements of this act, the requirements of this act shall not
3 prohibit such establishments or venues from operating in
4 accordance with the Governor's executive order.

5 h. The Commissioner of Health, in consultation with the
6 Commissioner of Labor and Workforce Development shall establish
7 rules and regulations necessary to implement the provisions of this
8 act.

9 i. As used in this act, and notwithstanding any law, rule, or
10 regulation to the contrary, "food or beverage establishment"
11 includes restaurants, cafeterias, dining establishments, and food
12 courts, with or without a liquor license, bars, and all other holders
13 of a liquor license with retail consumption privileges.

14

15 2. This act shall take effect immediately and shall expire on the
16 later of:

17 (1) the date of expiration, termination, or rescission of any and
18 all executive or administrative orders issued by the Governor or
19 Commissioner of Health establishing coronavirus-related occupancy
20 or customer seating restrictions applicable to food or beverage
21 establishments or venues; or

22 (2) the first day of the seventh month next following the date on
23 which the Governor declares that the state of emergency has ended.