

ASSEMBLY, No. 5478

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 8, 2021

Sponsored by:

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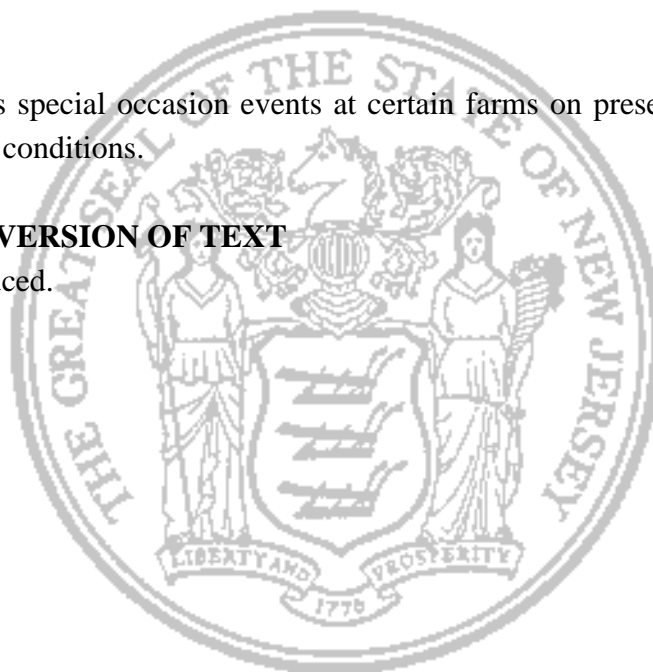
Assemblymen Taliaferro, Armato, Assemblywomen Reynolds-Jackson, Lampitt, Swain, Assemblymen Conaway, Calabrese, Mukherji, Moen, Caputo, Space, Wirths and Assemblywoman Downey

SYNOPSIS

Authorizes special occasion events at certain farms on preserved farmland, under certain conditions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning special occasion events on preserved farmland
2 and supplementing Title 4 of the Revised Statutes.

3

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

6

7 1. The Legislature finds and declares that:

8 a. Over 2,600 farms comprising over 236,00 acres of farmland
9 have been preserved in New Jersey since the inception of the State's
10 farmland preservation program;

11 b. the original intent of the farmland preservation program was to
12 prevent suburban sprawl and the conversion of agriculturally suitable
13 land to other purposes, and to keep agriculture as an economically
14 attractive business in the State;

15 c. agriculture should be viewed as simultaneously a land use and a
16 business enterprise, and preservation of farmland is not meant to
17 prevent farmers from marketing products or engaging in practices that
18 enhance long-term viability of the farm;

19 d. keeping agriculture as a sustainable industry in the State ensures
20 residents have continued access to fresh food with low environmental
21 impact;

22 e. the growing interest in agritourism, i.e., activities that attract the
23 public to working farms for enjoyment or education of visitors and
24 generate supplementary income for the farmer, has provided farmers
25 with supplemental revenue and enhanced opportunities to market the
26 State's agricultural and horticultural products;

27 f. with proper oversight, special occasion events on preserved
28 farmland can have minimal impact on land's viability for farming and
29 provide for new business opportunities for farmers in the State without
30 displacing agricultural or horticultural production as the first priority
31 use of preserved farmland or disrupting neighborhoods that surround
32 preserved farms.

33

34 2. As used in this act:

35 "Board" means a county agriculture development board
36 established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

37 "Commercial farm" means (1) a farm management unit of no less
38 than five acres producing agricultural or horticultural products worth
39 \$2,500 or more annually, and satisfying the eligibility criteria for
40 differential property taxation pursuant to the "Farmland Assessment
41 Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), (2) a farm
42 management unit less than five acres, producing agricultural or
43 horticultural products worth \$50,000 or more annually and otherwise
44 satisfying the eligibility criteria for differential property taxation
45 pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48
46 (C.54:4-23.1 et seq.), or (3) a farm management unit that is a
47 beekeeping operation producing honey or other agricultural or

1 horticultural apiary-related products, or providing crop pollination
2 services, worth \$10,000 or more annually.

3 “Committee” means the State Agriculture Development
4 Committee established pursuant to section 4 of P.L.1983, c.31
5 (C.4:1C-4).

6 “Grantee” means the entity to which the development rights of a
7 preserved farm were conveyed pursuant to the provisions of section 24
8 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-
9 31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999,
10 c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152
11 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for
12 farmland preservation purposes. “Grantee” shall include all entities
13 which lawfully succeed to the rights and responsibilities of a grantee,
14 including, but not limited to, the grantee’s successors and assigns.

15 “Occupied area” means any area supporting the activities and
16 infrastructure associated with a special occasion event including, but
17 not limited to: an area for parking, vendors, tables, equipment,
18 infrastructure, or sanitary facilities; an existing building; or a
19 temporary or portable structure.

20 “Preserved farmland” means land on which a development
21 easement was conveyed to, or retained by, the State Agriculture
22 Development Committee, a county agriculture development board, a
23 county, a municipality, or a qualifying tax exempt nonprofit
24 organization pursuant to the provisions of section 24 of P.L.1983, c.32
25 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of
26 P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-
27 43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through
28 C.13:8C-40), or any other State law enacted for farmland preservation
29 purposes.

30 “Special occasion event” means a wedding, lifetime milestone
31 event, or other cultural or social event conducted, in whole or in part,
32 on preserved farmland on a commercial farm. "Special occasion
33 event" shall not include:

34 (1) an activity which is eligible to receive right to farm benefits
35 pursuant to the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.);

36 (2) a recreational use permitted pursuant to a farmland
37 preservation deed of easement; or

38 (3) a wedding held for:

39 (a) a spouse, parent, child, grandparent, grandchild, sibling, niece,
40 nephew, or cousin of the landowner of the commercial farm; or

41 (b) the operator or an employee of the commercial farm.

42

43 3. a. Notwithstanding any law, or any rule or regulation adopted
44 pursuant thereto, to the contrary, a person may hold a special occasion
45 event on preserved farmland, provided that the person complies with
46 the reporting and approval requirements set forth in section 4 of this
47 act, and the special occasion event is held in compliance with the

1 requirements of this section and the rules and regulations adopted by
2 the committee pursuant to section 7 of this act.

3 b. The owner or operator of a commercial farm located on
4 preserved farmland that produces agricultural or horticultural products
5 worth \$5,000 or more annually may hold special occasion events on
6 the farm. The special occasion event shall comply with the following
7 requirements:

8 (1) A special occasion event shall have a maximum duration of
9 three consecutive calendar days if the event is marketed as a single
10 event. An event shall be considered a single special occasion event,
11 even if the event lasts for more than one day, if the event:

- 12 (a) is marketed as a single event;
- 13 (b) occurs only on consecutive days; and
- 14 (c) does not last for more than three days.

15 (2) A special occasion event shall not interfere with the use of the
16 preserved farmland for agricultural or horticultural production. The
17 special occasion event shall have minimal effects on the occupied area,
18 and shall be designed to protect the agricultural resources of the land
19 and ensure that the land can be readily returned to productive
20 agricultural or horticultural use after the event.

21 (3) A special occasion event that involves the service of alcoholic
22 beverages shall comply with all applicable State and local laws,
23 regulations, resolutions, and ordinances.

24 (4) All applicable State and local laws, regulations, resolutions,
25 and ordinances including, but not limited to, those concerning food
26 safety, litter, noise, solid waste, traffic, and the protection of public
27 health and safety shall apply to the special occasion event and all
28 activities related thereto.

29 (5) A special occasion event shall not cause a significant and direct
30 negative impact to any surrounding properties.

31 (6) No new structures shall be constructed or erected on preserved
32 farmland for the purpose of holding a special occasion event, and
33 improvements to existing structures shall be limited to the minimum
34 required for the protection of public health and safety;

35 (7) No public utilities including water, gas, or sewer lines shall be
36 extended to the preserved farmland for the purpose of holding special
37 occasion events, except that electric service may be extended to
38 preserved farmland for the purpose of holding special occasion events.

39 (8) The occupied area associated with a special occasion event
40 shall be limited to the greater of:

- 41 (a) two and one-half acres, or
- 42 (b) five percent of the preserved farmland, up to a maximum of
43 five acres.

44 (9) Any temporary structures, including an enclosed or open
45 canopy or tent or other portable structure or facility, utilized for a
46 special occasion event shall be erected only for the minimum amount
47 of time reasonably necessary to accommodate the special occasion
48 event.

1 (10) Parking at a special occasion event shall be provided through
2 the use of existing parking areas on the farm and curtilage surrounding
3 existing buildings to the extent possible. Additional on-site areas
4 required to provide temporary parking shall comply with the standards
5 for on-farm direct marketing facilities, activities, and events adopted
6 by the committee pursuant to P.L.1983, c.31 (C.4:1C-1 et seq.).

7 c. (1) No commercial farm shall hold more than one special
8 occasion event per calendar day.

9 (2) A commercial farm that produces agricultural or horticultural
10 products worth between \$5,000 and \$100,000 annually may hold up to
11 a maximum of 30 special occasion events per calendar year, of which
12 four may have 250 guests or more in attendance at any time during the
13 event.

14 (3) A commercial farm that produces agricultural or horticultural
15 products worth \$100,000 or more annually may hold up to a maximum
16 of 52 special occasion events per calendar year, of which 12 may have
17 250 guests or more in attendance at any time during the event.

18 d. A retail food establishment other than a temporary retail food
19 establishment, as those terms are defined in the State Sanitary Code
20 adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7), shall not
21 operate on a commercial farm in support of a special occasion event.

22 e. Notwithstanding any law, or any rule or regulation adopted
23 pursuant thereto, to the contrary, a special occasion event during which
24 fewer than 250 people will be in attendance as guests at any time may
25 be held without a variance or site plan approval.

26 f. Nothing in this act, or the rules and regulations adopted by the
27 committee pursuant to section 7 of this act, shall apply to any special
28 occasion event held on land that is not on preserved farmland.

29
30 4. a. No person shall hold a special occasion event during which
31 250 guests or more will be in attendance at any time during the event
32 on preserved farmland pursuant to this act unless the owner or operator
33 of the commercial farm applies to the grantee for approval pursuant to
34 this section; except that if the grantee is the owner of the preserved
35 farmland, the application shall be made to the committee for approval.
36 An owner or operator shall not be required to apply to the grantee for
37 approval for a special occasion event during which fewer than 250
38 people will be in attendance as guests at any time, provided that the
39 owner or operator complies with the requirements of paragraph (1) of
40 subsection b. and subsection d. of this section.

41 A grantee whose approval is required for a special occasion event
42 during which 250 guests or more in attendance at any time during the
43 event shall develop an application process by which an owner or
44 operator of a commercial farm located on preserved farmland may
45 apply for approval. The application shall, at a minimum, allow the
46 grantee, or committee, as applicable, to determine:

47 (1) the annual value of agricultural or horticultural products
48 produced by the commercial farm;

1 (2) the number of special occasion events held on the commercial
2 farm during the calendar year;

3 (3) the maximum attendance of the special occasion event;

4 (4) the acreage of the occupied area, as delineated on a map or
5 aerial photograph, to be used for the special occasion event; and

6 (5) whether the farm is in compliance with its farmland
7 preservation deed of easement.

8 To the maximum extent possible, the application process shall
9 allow an owner or operator to submit readily available existing data or
10 documentation.

11 b. (1) Upon request of the grantee, or committee, as applicable,
12 the owner or operator of the commercial farm shall provide evidence
13 that a proposed special occasion event on preserved farmland will be
14 in compliance with State and local laws as required in paragraphs (3)
15 and (4) of subsection b. of section 3 of this act.

16 (2) The grantee, or committee, as applicable, may condition its
17 approval upon receipt of evidence from the municipality, county, or
18 applicable State agency that the event will comply with the provisions
19 of paragraphs (3) and (4) of subsection b. of section 3 of this act.

20 c. The grantee, or committee, as applicable, may approve an
21 application for a special occasion event during which 250 guests or
22 more will be in attendance at any time during the event made pursuant
23 to this section upon a finding that the special occasion events on the
24 preserved farmland that are the subject of the application are in
25 compliance with the requirements of this act and any rules and
26 regulations adopted by the committee to implement this act. The
27 grantee shall forward a copy of its approval to the committee and to
28 the board in the county in which the preserved farmland is located.

29 d. An applicant shall annually certify to the grantee, or
30 committee, as applicable, in a form and manner to be prescribed by the
31 grantee, or committee, as applicable, information about all special
32 occasion events held in the prior calendar year, including, but not
33 limited to, the date, occasion, and approximate number of attendees of
34 each event. The grantee shall forward a copy of the certification to the
35 committee.

36 e. Upon the effective date of this act, and prior to the adoption by
37 the committee of rules and regulations pursuant to section 7 of this act,
38 a grantee, or the committee, as applicable, may accept applications
39 pursuant to this section and approve applications for special occasion
40 events that comply with the provisions of this act. Upon the adoption
41 of rules and regulations pursuant to section 7 of this act, approvals
42 pursuant to this section shall also comply with the rules and
43 regulations adopted by the committee.

44

45 5. a. The committee and the grantee have the right, without
46 advance notice, to inspect a preserved farm on which special occasion
47 events are held, upon presentation of appropriate credentials during

1 normal business hours or during a special occasion event, in order to
2 determine compliance with the provisions of this act.

3 b. The committee or the grantee may, upon reasonable cause,
4 order and specify the scope of an audit of the owner or operator of a
5 commercial farm engaged in conducting special occasion events on
6 preserved farmland for the purpose of determining compliance with
7 this act. The audit shall be conducted by an independent certified
8 public accountant approved by the committee, and the reasonable costs
9 thereof shall be paid by the owner or operator of the commercial farm.
10 The committee may establish a list of independent certified public
11 accountants approved for the purposes of conducting an audit pursuant
12 to this subsection. Copies of the audit shall be submitted to the grantee,
13 the committee, and the owner or operator of the commercial farm.

14 c. An owner or operator of a commercial farm engaged in
15 conducting special occasion events on preserved farmland shall not be
16 subjected to an audit authorized pursuant to this section more than
17 once per year without good cause demonstrated by the grantee or the
18 committee.

19

20 6. a. An owner or operator of a commercial farm who violates the
21 provisions of this act shall be liable to a civil administrative penalty of
22 up to \$250 for the first offense, up to \$500 for the second offense, or
23 up to \$1,000 for a third and subsequent offense. Each day in which a
24 violation occurs shall be considered a separate offense.

25 b. In addition to the penalties established pursuant to subsection a.
26 of this section:

27 (1) for a second offense, the committee shall suspend the owner or
28 operator of the commercial farm from holding special occasion events
29 for a period of up to six months;

30 (2) for a third offense, the committee shall suspend the owner or
31 operator of the commercial farm from holding special occasion events
32 for a period of six months up to one year; and

33 (3) for a fourth or subsequent offense, the committee shall suspend
34 the owner or operator of the commercial farm from holding special
35 occasion events for a period of at least one year, or may permanently
36 suspend the owner or operator of the commercial farm from holding
37 special occasion events.

38 c. No civil administrative penalty pursuant to subsection a. of this
39 section or penalty established in subsection b. of this section shall be
40 imposed pursuant to this section until after the owner or operator of the
41 commercial farm has been notified of the alleged violation by certified
42 mail or personal service. The notice shall include:

43 (1) a reference to the section of the statute, regulation, order, or
44 condition alleged to have been violated;

45 (2) a concise statement of the facts alleged to constitute a
46 violation;

1 (3) a statement of the amount of the civil administrative penalty
2 that may be imposed and the duration of the suspension that may be
3 imposed, if any; and

4 (4) a statement of the right of the owner or operator to a hearing.

5 The owner or operator served with the notice shall have 20 days
6 after the receipt of the notice to request in writing a hearing before the
7 committee. After the hearing, if the committee finds that a violation
8 has occurred, the committee may issue a final order assessing the
9 amount of the civil administrative penalty set forth in the notice and
10 imposing the suspension, if any. If no hearing is requested, then the
11 notice shall become a final order 20 days after the date upon which the
12 notice was served. Payment of the civil administrative penalty shall be
13 due, and duration of the suspension, if any, shall begin, on the date
14 when a final order is issued or the notice becomes a final order.

15 A civil administrative penalty imposed pursuant to this section
16 may be collected, with costs, in a summary proceeding pursuant to the
17 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et
18 seq.). The Superior Court and the municipal court shall have
19 jurisdiction to enforce the provisions of the "Penalty Enforcement Law
20 of 1999" in connection with this act.

21 d. The committee shall notify, in writing, the board in the county in
22 which the preserved farmland is located and the applicable grantee
23 when it suspends an owner or operator of a commercial farm from
24 holding special occasion events pursuant to subsection b. of this
25 section.

26
27 7. The committee shall adopt, pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
29 regulations to implement this act, including any rules and
30 regulations necessary to determine compliance with the
31 requirements of section 3 of this act.

32
33 8. a. The committee shall prepare a report annually on the
34 implementation of this act, and shall submit the report to the Governor,
35 and to the Legislature pursuant to section 2 of
36 P.L.1991, c.164 (C.52:14-19.1).

37 b. The report shall include:

38 (1) the number of preserved farms on which special events are
39 held and the number of preserved farms for which approvals to hold
40 special occasion events during which 250 guests or more will be in
41 attendance at any time during the event have been issued by grantees;

42 (2) the frequency, type, and size of special occasion events held;

43 (3) the extent to which municipalities, county agriculture
44 development boards, and qualifying tax exempt nonprofit
45 organizations that hold a development easement on preserved farmland
46 report problems associated with the holding of special occasion events;

47 (4) the number of audits that have been conducted pursuant to
48 section 5 of this act; and

1 (5) an accounting of penalties collected pursuant to section 6 of
2 this act.

3

4 9. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill would authorize commercial farms that are located on
10 preserved farmland, and produce agricultural or horticultural
11 products worth \$5,000 or more annually, to hold special occasion
12 events, subject to certain conditions.

13 The bill would establish various restrictions on the special
14 occasion events. For example, under section 3 of the bill, a special
15 occasion event: (1) may not interfere with the use of the preserved
16 farmland for agricultural or horticultural production; (2) may not
17 cause a significant and direct negative impact to any surrounding
18 properties; (3) must be designed to protect the agricultural resources
19 of the land and ensure that the land can be readily returned to
20 productive agricultural or horticultural use after the event; (4) may
21 not violate any applicable State and local laws, regulations,
22 resolutions, and ordinances including those concerning alcohol,
23 food safety, litter, noise, solid waste, traffic, and the protection of
24 public health and safety; and (5) may not involve the construction
25 of any new structures or water or sewer utilities on the preserved
26 farmland.

27 Under the bill, a farm that produces agricultural or horticultural
28 products worth between \$5,000 and \$100,000 annually may hold up
29 to a maximum of 15 special occasion events per calendar year, of
30 which two may have 250 guests or more in attendance. A farm that
31 produces agricultural or horticultural products worth \$100,000 or
32 more annually may hold up to a maximum of 52 special occasion
33 events per calendar year, of which 12 may have 250 guests or more
34 in attendance. An event would be considered as a single special
35 occasion event, even if the event lasts for more than one day,
36 provided the event is marketed as a single event, occurs only on
37 consecutive days; and does not last for more than three days.

38 A person holding a special occasion event during which 250
39 guests or more will be in attendance at any time during the event
40 would be required to apply to the grantee of the farm, i.e. the entity
41 to which the development rights of the farm have been transferred,
42 for approval prior to holding a special occasion event, or if the
43 grantee is the owner of the preserved farmland, the application
44 would be made to the State Agriculture Development Committee
45 (SADC) for approval. Special occasion event during which fewer
46 than 250 people will be in attendance as guests at any time would
47 not need to receive approval, provided the owner or operator of the
48 commercial farm complies with certain requirements set forth in

1 section 4 of the bill. The bill directs grantees to develop an
2 application process for special occasion events during which 250
3 guests or more in attendance at any time during the event, and the
4 bill imposes certain minimum requirements on this application. For
5 example, it requires the application to allow the grantee or the
6 SADC as applicable, to determine the value of agricultural goods
7 produced by the farm, the number of special occasion events
8 already held on the farm that year, and the area of the preserved
9 farmland to be used for the special occasion event. In addition, the
10 application process should allow an owner or operator to submit
11 readily available existing data or documentation. The bill would
12 authorize a grantee or the SADC, as applicable, upon the effective
13 date of the bill, and prior to the adoption by the SADC of rules and
14 regulations pursuant to section 6 of the bill, to accept applications
15 under the bill and approve applications for special occasion events
16 that comply with the provisions of the bill. Upon the adoption of
17 rules and regulations by the SADC under the bill, applications and
18 approvals would also be required to comply with those rules and
19 regulations.

20 The bill would also allow the SADC and the appropriate grantee
21 to inspect preserved farms on which special occasion events are
22 held, upon presentation of appropriate credentials during normal
23 business hours or during a special occasion event, in order to
24 determine compliance with the bill's provisions. In addition, the
25 bill would allow the SADC or the grantee, upon reasonable cause,
26 to order an audit of a farm to verify that it is in compliance with the
27 bill's provisions.

28 Under the bill, an owner or operator of a commercial farm who
29 violates the bill's provisions would be subject to a civil
30 administrative penalty of up to \$250 for the first offense, up to \$500
31 for the second offense, or up to \$1,000 for a third and subsequent
32 offense. In addition, an owner or operator who repeatedly violates
33 the bill's provisions would be prohibited from holding special
34 occasion events on the preserved farm for a period of time that
35 increases along with the number of violations.

36 The bill would require the SADC to submit an annual report to
37 the Governor and the Legislature that includes the number of
38 special occasion events held that year, the number of audits
39 conducted, the amount of penalties collected, and a description of
40 any problems associated with the holding of special occasion events
41 reported by municipalities, county agriculture development boards,
42 and nonprofit organizations that are grantees. Finally, the bill
43 would require the SADC to adopt rules and regulations to
44 implement the provisions of the bill.